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# ***JPRS Report***

## **East Europe**

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# East Europe

JPRS-EER-90-056

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## INTRABLOC

### Soviet Party Expert on Eastern Europe, Domestic Problems

25000678E Budapest NEPSZABADSAG in Hungarian  
24 Feb 90 p 6

[Interview with Soviet foreign affairs expert Rafael Fjodorov, by Laszlo L. Lengyel in Hungary; date not given: "The Soviet Union Will Not Utilize Means of Extortion"—first paragraph is NEPSZABADSAG introduction]

[Text] Last week Rafael Fjodorov, first deputy to the international division head of the Communist Party of the Soviet Union [CPSU] Central Committee, visited Hungary. He is one of the familiar foreign policy experts of the Soviet party leadership. Our reporter interviewed him about Soviet views related to changes in Eastern Europe.

[NEPSZABADSAG] In recent months extremely rapid social and political changes have begun to take place in the East European countries. The direction and outcome of these changes is hard to determine. In any event, it has become clear by now that the individual countries have abandoned their previous practice, have embarked on an entirely different developmental path, and are trying to approach the model provided by West European capitalist countries. How does the Soviet leadership view all of this? Do East European developments raise concerns in Moscow?

[Fjodorov] First of all I would like to remind you that perestroyka started in the Soviet Union, despite the fact that steps toward reform were taken earlier in individual East European countries. I will mention Hungary as an example, when in earlier days Janos Kadar began transformation, and quite naturally he did so within the limits of opportunities that were available at the time. This process subsequently slowed down, and the influence exerted by our country played a role in that. As far as a specific response to your question is concerned: The East European developments were not unexpected in the Soviet Union, although we were not able to predict the pace at which they would occur, and their timing. The principle we advocate concerning the sovereignty of nations and people has general applicability. This means that we will not regard as a threat the East European people's wish to change the life they have pursued thus far. Quite naturally, we are interested in preserving our good relations with these countries, but the character of these relations is changing; it is becoming free of ideology. While in earlier days interstate relations depended on party leaders, in the future we will have to deal separately with inter-party and interstate relations. For this reason it is indispensable that we define and stress our state interests. I am convinced that this process has just begun, and for the time being, quite a few things are shrouded in fog, so to speak.

As far as development in the direction of capitalism is concerned, I do not regard this expression as appropriate. Just like a 60-year-old woman who discovers that 40 years earlier she made a grave mistake and is unable to once again be 20 years old, the East European countries will not be able to regard the period they have already lived through as if it had not taken place. Undoubtedly, the social order to evolve in these countries will also reflect the people's reaction to the past 40 years, i.e. mass psychology will also play a serious role. On the other hand, we must recognize that capitalism is not at all a rule of general applicability on this earth. Essentially, it evolved in a relatively narrow geographical area where all the necessary conditions existed. For this reason I am convinced that a discussion of East European countries' possible return to capitalism is inaccurate. I would prefer to say that this is the start of development in a new direction, one that preserves and adopts whatever is rational. I mean, for example, the establishment of market conditions, and the guarantee of democratic civil rights.

[NEPSZABADSAG] President Bush recently offered a new proposal concerning the upper limit of foreign troops stationed in Europe. The Soviet Union accepted that offer with unusual expediency. What was the reason for the fast pace of acceptance? Since Czechoslovakia and Hungary have begun negotiations concerning the full removal of Soviet troops, and since the approach between the two German states has created a new situation, where in Eastern Europe will that certain 195,000-member Soviet force be stationed, in your view?

[Fjodorov] The answer is simple to the first part of the question: We agreed so fast because troop reductions are the essence of our policies. We have urged several times that this step be taken, we made several proposals, and thus it is perfectly clear why we reacted so quickly. As for the second part of the question: I feel that the question presumes matters that may or may not happen. It is obvious that the Soviet troops will leave Czechoslovakia and Hungary, and it is only a matter of time.

[NEPSZABADSAG] Is it possible that this will take place by the end of 1990?

[Fjodorov] I am no expert in this regard, but I feel that this is an issue that belongs to the realm of neither principles nor politics. In my view, a deadline may be determined by the physical capabilities of removing troops. It is precisely for this reason that we request your understanding of the fact that this is a technically complicated matter for us. Demands were made by Czechoslovakia to the effect that since Soviet troops arrived there within a day, they should also remove themselves within a day. I believe it is clear that such troop removal simply could not be implemented.

As to where the Soviet troops will be stationed? Well, the Polish Government did not establish demands similar to

those established by the Hungarians and the Czechoslovakians. I believe that the reasons for this are understandable. As far as German unification is concerned, I feel that not only the great powers, but every European state is interested in seeing to it that this process take place as gradually as possible, because hasty action may substantially shake European stability. No one could be really interested in seeing that. I feel that an approach which holds that unification stems only from the needs expressed by the German people is not quite correct, because there are some serious economic motivating factors. On top of that, not every East German supports unification. According to an assessment I received not too long ago, some 30 percent of the East Germans are opposed to German unification, and about half of those who support unification believe that it should take place gradually. The most important matter is, of course, that the establishment of a unified Germany not only kicks apart the Yalta framework, but would also violate the accepted principle that European borders are inviolable. And the consequences of this are hard to predict for the time being.

[NEPSZABADSAG] Accordingly, if I understand your words correctly, the Soviet troops would be stationed in Poland and in the eastern part of the future unified Germany.

[Fjodorov] I would much rather say that they will be stationed in the German Democratic Republic. As far as we are concerned, we find it unacceptable that a unified Germany would become a member of NATO. Similarly unacceptable is the idea that within a unified Germany only the GDR territory would fall outside of NATO jurisdiction. There is much speculation in this regard, and only the future can produce a decision.

[NEPSZABADSAG] The idea of neutrality has been raised in the wake of East European changes. What future role could the Warsaw Pact play in the midst of changed European conditions, in your view?

[Fjodorov] For the time being it would be out of the question to say that a majority of the East European countries endeavor to achieve neutrality. This idea has evolved mainly in Hungary, and similar concepts also emerged in Czechoslovakia. I am convinced that the Warsaw Pact must undergo a deep-rooted transformation. The essence of such a transformation would be that the political sphere would gain strength, while military cooperation would play a background role. Accordingly, the organization would be transformed so as to become a forum of mostly a political character. This process will not be devoid of problems, of course.

[NEPSZABADSAG] Paralleling this, in what ways will the Soviet Union's place and role be reassessed in the future Europe?

[Fjodorov] It is difficult to answer this question because for the time being there are a number of theories concerning the future Europe, and based on our present knowledge it is hard to predict which one of these will

become a reality. If we simplify matters, we could say that essentially two concepts clash in this regard. One concept assumes that there will be a unified Europe, in which every country ranks equally and takes part to represent its own interests, and that each country endeavors to cooperate, to reach a negotiated settlement of problems, and to preserve peace, jointly with the others. The other concept holds that the borders of a united Europe would be drawn along the Soviet borders. This concept would exclude the Soviet Union from common European processes, i.e. it does not regard the Soviet Union as part of Europe. We do not regard the latter concept as rational, because the Soviet Union includes significant areas of Europe, and has rather serious interests in Europe. In the future, these interests will presume the reassessment of relations with East European countries, and the placing of such relations on the foundation of mutual interests. This will mean mainly that interests must be defined by all sides in a pronounced way, without the earlier ideological approach.

[NEPSZABADSAG] In this relation many fear that in Hungary, and also in other East European countries, the Soviet Union will utilize its economic position to "extort" these countries. These views hold that even in the absence of Soviet military presence, the Soviet Union may exert serious political pressure in this region by merely "shutting off" the oil deliveries or the long distance electrical lines. What is your view?

[Fjodorov] We will not pursue such policies. We are interested in developing mutual relations, but it has not even occurred to us to use such relations to exert pressure based on political considerations. We have not utilized such methods in the past either, even if we recognized certain matters in some places which the former Soviet leadership did not like. The Soviet party has always expressed its objections by political means. Having said that, I must state the following: From the Soviet standpoint, the exploration of energy resources represents increasingly large expenditures. Increasing the exports subject to settlement in convertible currencies presents similar large concerns, and so does the debt service. For this reason we will, of course, endeavor to fully enforce our interests in the economic field. This does not mean that we would want to reduce the volume of mercantile trade with East European countries, because we well recognize the role played by Soviet energy and raw material shipments in those countries. All we want is to receive goods of appropriate standards in exchange. More than one analysis stated that during the past 10 years we essentially supported an industrial structure of a low developmental stage in the countries of Eastern Europe, by delivering cheap energy. Previously this approach was justified by ideological considerations; now, as I said, we must bring real interests to the forefront. By saying this I do not intend to explain a possible reduction in the volume of deliveries, because that is not what we are talking about, but we must

recognize that the earlier practice cannot be continued endlessly, because that would not be in the interest of either party.

[NEPSZABADSAG] Free elections will be held in Hungary in the near future, as well as in several other East European countries. What results do you expect to see? Whom does the Soviet leadership "root" for?

[Fjodorov] I believe that an election is unlike a soccer game, thus the issue is not whether we are rooting for someone. We would like to see sober considerations win in the Hungarian elections, and that the Hungarian people's true, instead of apparent will prevails. This is not easy of course, nevertheless I feel that the democratization process may become serious only if it enforces the interests of a majority of the people. As far as sympathizing is concerned, quite naturally we are more confident in those who feel more confident with regard to us; and it is obvious that I mean political affinity, and not personal attraction. Accordingly, our favorable feelings are not general. They are directed mainly toward places where we are understood better, where we see a greater opportunity for the reconciliation of interests, and where we sense that the conduct toward the Soviet Union is open.

[NEPSZABADSAG] Could you perhaps name some specific political parties?

[Fjodorov] I do not feel that this would make sense or serve any particular purpose. I am convinced that we must not name any party, because that would constitute coarse interference in the internal affairs of Hungary, and we want to avoid that.

[NEPSZABADSAG] But still, in your view, which Hungarian party's or parties' spirit is closest to that of the CPSU?

[Fjodorov] I must avoid giving you a direct response, because at present we find such a broad range of various ideals within the CPSU to which the spirit of far more Hungarian parties than you would think is close. For this reason it would be inappropriate for me to name any party.

[NEPSZABADSAG] As long as you have mentioned the internal conditions, the ongoing processes in the Soviet Union, in the wake of often rather severe conflicts, an increasing number of people are asking this question: Can the Soviet federal system be sustained in its present form? In general: Is it possible to preserve the unity of the Soviet Union?

[Fjodorov] In my view the composition and character of relations in the federation cannot be maintained in exactly the same form. It is apparent that the federation we must establish must assume a far more democratic form, and as a result of that there is a need for substantive transformation. It is equally clear that the present extent of centralization is by no means responsive to the needs and to interests. Transformation must establish

conditions which enable the establishment of a system of relations which ensures the special interests of individual republics far better than before.

[NEPSZABADSAG] It appears that not even this satisfies individual republics. Lithuania, for example, is already calling for secession.

[Fjodorov] In this case we must also find a formula which guarantees the interests of both the Lithuanian side and the federation. In my view the political campaign in Lithuania which calls for independence disregards a number of things. For example, I find it difficult to imagine that on the one side, in the name of full political freedom, Lithuania would detach itself from the Soviet Union, while on the other side it would preserve all those economic advantages which it enjoys in cooperation with the rest of the republics.

As far as the question as a whole is concerned: We indeed have huge problems in a number of member republics, but the Soviet Union exists, and this is a fact. What happens in the future depends on a number of factors, some of which cannot be foreseen. There are also some in the Soviet Union who say that Russia itself should be separate from the outset, and that it is not interesting what happens to the rest. There are a number of various views, and a tough political battle is being fought in this regard. In it we find clashing interests, and these interests may clash even more in the future. Accordingly, we are dealing with a problem cluster of such complexity that it is not yet possible to predict its future evolution.

## CZECHOSLOVAKIA

### Leadership Plan To Use Army, Militia Revealed

#### Militia Commander Contradicts Jakes

90EC0223A Prague MLADA FRONTA in Czech  
12 Jan 90, pp 1, 2

[Article by Jaroslav Havlicek and Vladimir Tachei: "Was There A Man Behind the Curtain?"]

[Text] The former chief of the main staff of the People's Militia M. Novak contradicts M. Jakes' statement. "The proposal that the militia come to Prague on 21 November resulted from a suggestion by the commander of the staff of the People's Militia, M. Novak," answered M. Jakes to the CTK press agency's question whether the statement by the former head of the state administration department of the CPCZ [Czechoslovak Communist Party] Central Committee R. Hegenbart published on Tuesday, 9 January, in MLADA FRONTA that the order for that was given by the former general secretary M. Jakes was true. We therefore yesterday requested the former chief of the main staff of the People's Militia (as his office was properly called) Miroslav Novak, now retired, to tell us about the situation and we spoke with him in the CPCZ Central Committee building.

[MLADA FRONTA] Who gave the first order to call the People's Militia into Prague?

[Novak] Around 1600 hours on 21 November R. Hegenbart called to tell me to go see Comrade Jakes and that it involved some measures to strengthen calm and order in Prague and thus obviously would involve reinforcing the SNB [National Security Corps] with People's Militia. Comrade Jakes gave me the order to make preparations for the arrival of the units. Because I did not have the authority to make a decision on any kind of use of the militia, I said that I would carry out the tasks which I received. On the basis of this conversation I was called before the leadership at 1800 hours where they were evaluating the security situation in Prague. The Security forces were about exhausted. I was asked as to the situation, about what I was capable of doing.

[MLADA FRONTA] Who asked you about the situation?

[Novak] The general [secretary].

[MLADA FRONTA] In front of the leadership?

[Novak] Yes. Until that time I had been roughly thinking out what forces I could take from where, while the discussion of the leadership lasted almost an hour on this matter. After I left the leadership I prepared a brief order for the krajs to select the assigned number of forces and ready them for movement.

[MLADA FRONTA] Can you estimate how many members of the People's Militia were called up and how many of them made it to the capital?

[Novak] There were 5,000 called up, but fewer than 4,000 of them arrived. The East Bohemian Kraj forces remained at home. The Central Bohemian Kraj was not here at all and Prague had enough of its own troubles.

[MLADA FRONTA] A call-up order signed by Jakes and Novak arrived by teleprinter at the LM [People's Militia] kraj staffs, however...

[Novak] Yes, that was an encoded message by which I gave the order and signed on the authority of the general secretary. He was tired and immediately after the leadership meeting he went home.

[MLADA FRONTA] Did Jakes justify his decision to you in any way that you should prepare for the LM coming to Prague?

[Novak] No. The way that it worked was that for providing assistance by the members of the LM to maintain calm and order, the Minister of Interior of the CSSR would request it of the general secretary on the basis of an assessment of the political security situation.

[MLADA FRONTA] Do you think that in this case the general secretary reached a decision by himself?

[Novak] I do not know whether the Minister of the Interior suggested it to M. Jakes. I was tasked only with

ensuring the movement of the LM to the debarkation points where they were taken over by the SNB authorities. That is how it happened. Later, about 2200 hours, I talked with M. Stepan, who had not been at the leadership meeting, and we evaluated the situation. We reached the conclusion that committing the LM was substantially useless and might provoke matters. Of course, I did not have the right to countermand the decision of M. Jakes or the leadership, so I therefore called him at home, but I could not get through to him. I then telephoned the chief of the Fifth Directorate, the bodyguards, who sent me a car with a driver and I drove to M. Jakes's apartment. I got to see him at about 1:15 a.m.

[MLADA FRONTA] But the militia was already in route to Prague. What did you then talk about?

[Novak] I laid out the situation for him and proposed stopping the movement of the units which had not left yet. On his authority I then issued such an order. I went to see Mr. Jakes again first thing in the morning at a meeting of the NF [National Front] Central Committee and proposed to him that the units which were already in Prague should return home immediately and that he should agree to this. I got his agreement and so I gave instructions to return in his name. As a practical matter, not even he had the right to give such instructions without the concurrence of the leadership, however. It worked out so that the evening of that day [22 November] I was removed from my post at a leadership meeting. When M. Jakes informed me of this on 23 November, I did not want any justification for it. According to information which I had received elsewhere, I either did not carry out my mission or, just the opposite, I had exceeded my authority. Moreover, I had requested retirement in May of last year.

[MLADA FRONTA] Do you exclude the possibility that Jakes's formula for ensuring security and order in Prague was not just a maneuver to cover up a putsch attempt?

[Novak] I totally exclude that possibility.

[MLADA FRONTA] Let us come back to what preceded your nocturnal visit to M. Jakes in his apartment. Just what did M. Stepan say to you?

[Novak] He expressed the opinion that calling up the militia was really not necessary. This was the main reason why I then visited Jakes. But before that I telephoned R. Hegenbart, who said to me, "Look, I cannot talk about that because I have a visitor here. Go get hold of Jakes."

[MLADA FRONTA] That agrees with what R. Hegenbart told us. But besides you, supposedly the former Minister of the Interior Kincl also called him and he was surprised that the militia was coming to Prague, that he did not know anything about it, and what should he do...

[Novak] I am really surprised that Kincl says that he did not know about it.

[MLADA FRONTA] Once more, so that it is totally clear: The order for you to prepare everything connected with calling the militia to Prague was given by M. Jakes?

[Novak] Yes, Jakes.

[MLADA FRONTA] But he said that you made the first suggestion...

[Novak] No. The first information about the LM being committed was made known to me 21 November around 1600 hours by R. Hegenbart on the way to Jakes's office.

Even M. Novak's testimony still does not clear up all the circumstances connected with calling the People's Militia to Prague during the night of 21-22 November, but it gives further food for thought. Was there someone behind the scenes who "pulled the strings" connected to those who have already had their say on the pages of our daily? We repeat once again what M. Novak said to us and quote the words of R. Hegenbart (see MF [MLADA FRONTA] of 9 January): "I know exactly what happened with those militia units. At 1600 hours, Jakes called us, militia chief Novak and me, and said "At 1800 there will be a leadership meeting and Novak should prepare a proposal for the militia coming to Prague and occupying the higher schools, theaters, intersections, and other places."

#### Army Role To Be Investigated

90EC0223B Prague MLADA FRONTA in Czech  
11 Jan 90 pp 1, 2

[Article by Josef Tucek: "Arms Against the People?"]

[Text] "Our historical commission must also investigate instances when attempts were made to use the army against the citizens, in November last year for example." These words understandably caught my attention at yesterday's press conference of the Army Rebirth Association. And I therefore asked to have them amplified.

Just to explain: The Army Rebirth Association (ARA) was established in the middle of December by former career army people and civilian army employees who were persecuted during the purges at the time of the so-called normalization. It calls for the rehabilitation not only of these people, but also of all those persecuted since the end of the war, particularly those who took part in the resistance abroad and at home.

But let us go back to the original question. O. Bizik, the chairman of the ARA executive committee, answered it by saying that our history recorded an army operation against the population in 1953, when in Pilsen and other locations the army moved against people who were protesting monetary reform. An attempt to use the army took place most probably toward the end of 1967—the army then was maneuvered into a situation where it was to act in support of A. Novotny, who at that time was to be replaced at the head of the CPCZ [Czechoslovak

Communist Party] by A. Dubcek. (The former commander of the West Army Group, S. Prochazka, commented at a press conference that on 10 December 1967 an unexpected partial mobilization took place, and the Group Command had to quickly work out a training plan. Obviously, however, these were not maneuvers, these people were called to arms for some other purpose.) Fortunately a putsch did not take place at that time, and developments in Czechoslovakia were able to continue along democratic lines for another few months.

But the most serious matter now is the conduct of the army last November. The ARA members were driven out of the army 20 years ago, but they did not lose their professional skills or certain contacts. Yesterday they reported that besides the curious attempt at a putsch during the night of 21-22 November 1989 by calling the People's Militias to Prague (we regularly refer to this sad occasion in MLADA FRONTA), obviously something similar was to happen with the help of the army as well. The soldiers were on the alert, and the conduct of the then Minister of Defence M. Vaclavik is difficult to explain. "We also have other indications that in November not the army as a whole but individual people at various levels of command were ready for anything", summarized A. Zrustek, ARA secretary. The ARA would like to throw light on these matters in full detail.

As was made clear at the press conference, only a thorough constitutional control over the army can prevent attempts to misuse it. But I would like to add that the first organizational meeting expressed full confidence in the current Minister of Defence M. Vacek.

#### HUNGARY

##### Preelection Interviews With MDF, SZDSZ Executives

25000691J Budapest FIGYELO in Hungarian  
22 Mar 90 pp 1, 6, 8

[Interviews with MDF representative Peter Akos Bod, and SZDSZ executive Ivan Peto, by Gabor Karsai; place and date not given: "The Opposition Prior to Assuming Power"—first paragraph is FIGYELO introduction]

[Text] Public opinion research surveys prepared prior to the weekend elections show that the two parties having the best chances of acquiring the most votes are the Hungarian Democratic Forum [MDF] and the Alliance of Free Democrats [SZDSZ]. We interviewed representatives of these two parties about the contradiction between having been in the opposition thus far and the expected responsibility of governance. Peter Akos Bod, Planned Economy Institute division head and acting head of the MDF economic policy committee, responded on behalf of the MDF, while Ivan Peto, the historian of the New Hungarian Central Archives and SZDSZ executive, spoke on behalf of the SZDSZ. Gabor Karsai posed the questions.

**"A Strong Government Will Be Needed..."**

[FIGYELO] I would think that this is not the first time you have been confronted with the view that the SZDSZ style surprisingly resembles that of the Hungarian Communist Party, which stepped out of illegality in 1945. That party functioned as a self-directed, handful organization conscious of its mission, which regarded itself as the sole possessor of truth. Its goal to "turn the world around by tomorrow" was not kept secret. This conduct undoubtedly produced success for your organization during the past months. But could this revolutionary outlook be successful in the event that you become the governing party?

[Peto] To begin with, I do not believe that the picture you drew of the SZDSZ is correct. Today all parties which may be taken seriously are organized around a relatively tight core of intellectuals. While it is true that the SZDSZ leaders are more educated in the sciences needed for political involvement than the rest of the parties—with the exception of the Association of Young Democrats [FIDESZ] and the Hungarian Socialist Party [MSZP]—the SZDSZ' political involvement is rational, and compared to other parties perhaps less emotionally based. The SZDSZ believes that it has concepts about what needs to be done, and its goals and means are naturally different from the ones the Communists had. The SZDSZ never wanted to govern by itself, particularly not without an opposition.

[FIGYELO] But a year ago the SZDSZ did not even want to assume power. According to statements made then, the SZDSZ wanted to prepare itself for a long term opposition role!

[Peto] That is a misunderstanding. The SZDSZ wanted to become a party from the outset. The fact that if the SZDSZ succeeds in the elections it must or may share power is implicit in this statement. The fact is that we are more successful than we thought we would be a year or a year and a half ago. In those days we could not have known that there would not be a social democratic party that could be taken seriously, and that the workers would join mostly our party.

[FIGYELO] Several times recently I have run across a statement according to which the SZDSZ is a left-of-center party. I do not recall hearing this earlier.

[Peto] Even now, this is stressed mainly by the MDF in reference to Janos Kis' statement in Paris. Kis indeed made such a statement, but the Hungarian structure of parties cannot be characterized by Hungarian categories in the West. From the outset, the SZDSZ claimed to be a social-liberal party, which corresponds to left-of-center in the West European meaning of that term. On the other hand, it does not make sense to talk about a left and a right in Hungary today; one may assume that the MDF wants to embarrass us by pointing out that in Hungary being on the left has been discredited.

Returning to your first question, I do not believe that the SZDSZ style is revolutionary. It is a fact that we were willing to make fewer compromises with those in power than the rest of the parties—except FIDESZ—in regard to matters that influence Hungarian development in the long term, nevertheless we did not hinder the government in regard to many issues, mainly concerning the management of economic problems.

[FIGYELO] And yet I have a feeling that the opposition, and within that part of the SZDSZ, regrets that, different from other East European countries, we could not, or did not have to, create a real revolution in Hungary. I got this impression, for example, from an interview with an SZDSZ executive that appeared not too long ago in VILAG.

[Peto] I do not believe that this is so, because the SZDSZ always advocated a peaceful transition. I would say that the issue would much rather pertain to the fact that in their everyday lives most people barely sense any change, and they would have felt more of a change had there been a moment when "the world turned around." But these are mere regrets. True, we did not think that those in power would retreat so softly.

[FIGYELO] But if you feel that way, would not the power have deserved more gestures for its softness?

[Peto] This softness was not always clear cut; it came about in the course of political struggles and aimed at dividing the opposition.

[FIGYELO] It is apparent that FIDESZ is an obvious partner for the SZDSZ, as a possible governing party. The characteristics of the rest of the parties in the small coalition, however, are quite different from the SZDSZ perceptions. I mean primarily the Smallholders' land concept, the Social Democrats' intent to cooperate with branch trade unions, or the call for civil disobedience. What supports the idea that these may be possible allies?

[Peto] To top it off we are also competing with FIDESZ in the elections. This unavoidably leads to an emphasis of the differences.

[FIGYELO] It is remarkable that in several Budapest voting districts some of the best known SZDSZ and FIDESZ leaders are running against each other. What is the reason for that?

[Peto] That is odd indeed; it would have been better to avoid this situation, but it could not be avoided. It would have been difficult to convince a large, perhaps 100-person, SZDSZ district organization of supporting another organization's candidate, for example, by pasting posters up for that candidate. Aside from that, FIDESZ also wants to stress its independence.

As far as the two other parties are concerned, the Social Democrats have indeed become involved in a few actions which serve the purpose of hanging on, and which are more desperate than actions which have been thought through. But their principles are not far removed

from ours. For a long time the FKgP appeared to be a party speaking in a moderate tone of voice, worth cooperating with from a practical standpoint, because the two organizations' voter support is based in different areas, in addition to the fact that we have identical basic principles. In recent weeks, however, some of the utterances made by the FKgP have become strongly demagogic. We make our decisions on the basis of principles and practical considerations, not on emotional grounds, and based on this, cooperation seems even more difficult than with the other parties.

[FIGYELO] If you do not make decisions on an emotional basis, why do you rule out entirely the possibility of cooperating with the MSZP? Because the MSZP's, or at least the MSZP reform wing's, economic policy concepts are perhaps closest to yours, and their basic political principles also appear to be appropriate for possible reconciliation.

[Peto] This is true, but here the emotional criteria are not decisive. The people's democratic platform was very strong at the time of the Hungarian Socialist Workers Party [MSZMP]-MSZP congress, and this platform is closer to the concepts advocated by the People's Party [Hungarian People's Party, MNP]. Although they have barely been heard from recently, their representatives are in the MSZP leadership and among the MSZP candidates for representative, and this blurs the MSZP profile. However, our decisive criterion is that we would not like to see the large enterprise and cooperative lobby being able to enforce its old power. Since in our view it will be impossible to exchange this leading stratum—the elite thus far—by administrative means, we envision that their influence can be reduced only if the party, which has reaped the benefits of, and suffered from its entwinement with this group, becomes the opposition.

[FIGYELO] Laszlo Rajk Jr., a well known member of the SZDSZ feels that more radical personnel changes are needed than the idea you convey. He sees a need to exchange chief division heads in the ministries, according to a report covering an election rally.

[Peto] As one who frequently makes statements, I am experiencing that the press does not always accurately state what we say. This is probably the case in this instance. The SZDSZ deems politically motivated personnel changes necessary only in expressly political functions, such as in the cases of ministers and elected officials in autonomous governments. These leaders may, of course, choose their associates. This must be accomplished on a professional basis, even though members of office apparatuses must obviously accept the policies of the governing party. We perceive a system in which the party affiliation of persons remains a secret at the workplace.

[FIGYELO] Does the SZDSZ have some characteristic base in Hungarian society?

[Peto] It does. To understand this, let us start out from the bases that other parties have. The MSZP's social base

consists more or less of persons who would have liked to change conditions for quite some time, but who perceived the accomplishment of such change from inside the MSZMP. Most of these people think in modern terms, and are at least not unsuccessful. In addition to these, some large enterprise and cooperative leaders concerned about their careers also belong to this party. The MDF began to organize publicly before we did. Using the old system of categories, the MDF attracted primarily the Christian upper middle class. Most of these persons are successful in their professions: physicians, lawyers, teachers. They did not openly turn against the prevailing conditions, but never identified with them, and were emotionally opposed to the so-called existing socialism.

These two parties determine the SZDSZ' sphere of movement. The highly qualified stratum of intellectuals belongs to us, the persons who did not want to change the system from within the party. Another group that is part of the SZDSZ is similar to the MDF base, but its members are politically more conscious than they are, and they agreed to oppose the system more openly and earlier than the MDF members. The third part of the SZDSZ membership recognized only the organization's consistent anticomunism: many such people joined just before the popular referendum. But since the SZDSZ appeared successful, after the popular referendum a number of already successful persons joined. These persons are viewed as authentic in their own milieu, and not just as loudmouths. This was a very important moment in our becoming a party. Now the SZDSZ membership is recruiting from every stratum of society; their common denominator is that they reject the MSZP past as well as its legacy which continues to survive, but they are far removed from the MDF way of politics which often builds on mere emotion, and which presents soft demands sometimes, and unrealistic demands at others.

Different from other parties, the SZDSZ prepared a program first, then organized itself. This produced the advantage that the membership could more or less clearly recognize what it was joining. Thus, within the SZDSZ the cavalcade of populism, authoritarianism, and collusion with those in power would be inconceivable, while these features characterize the MDF in the outsiders' view.

[FIGYELO] At the level of watchwords, the SZDSZ economic policy resembles that of the Nemeth government. Why, in your view, was the outgoing government unable to achieve its economic goals?

[Peto] Consistent with the logic of the party state—don't forget, the MSZMP-MSZP congress took place only in October—this government was prone to be extorted, or, at the minimum to be pushed in the corner by large enterprises. We are not intertwined with such power groups, and in this way we can be more credible, we can stand up against these lobbies in a more consistent manner.

[FIGYELO] But the charge of entwinement has already been voiced in public. A MAGYAR HIRLAP article essentially charged the SZDSZ, claiming that the SZDSZ did not stand up with the rest of the parties against spontaneous privatization because its chief economic expert is the president of Financial Research, Incorporated, and the chief income source of that firm is to organize enterprise transformations.

[Peto] Marton Tardos has no interest whatsoever in enterprise transformations. These jobs are taken on by individuals, and the research institute provides only a framework. And those most intensively involved in enterprise transformations are orientated toward the MDF, and not toward the SZDSZ. If there is trouble with privatization, the conclusion to be reached is not that the process must be stopped, but that abuses must be prevented.

[FIGYELO] A moment ago you mentioned the government's proneness to extortion, and mentioned personal intertwining as one of the reasons for that. Behind the proneness to be extorted we also find economic causes—threats relative to disturbances in supply, of unemployment—which will be inherited by the next government. Will the new government not be prone to extortions, particularly if we consider the many kinds of statements made in the election struggle, promising a brighter future?

[Peto] The SZDSZ did not make any kind of demagogic statement.

[FIGYELO] But one of the SZDSZ economic experts, for example, stated to MAGYAR NEMZET that "we do not want to place additional burdens upon the populace," "we do not want to touch the preferred residential loans."

[Peto] Undoubtedly this is loose talk, but one should not attribute great significance to such inaccuracies. In the SZDSZ view, a strong government will be needed; this is one reason why we raised the theoretical possibility of forming a coalition with the MDF—as a theoretical possibility—whereas the realistic potential of such a coalition is very small. A government which has continuously lost power, and which has removed itself from the MSZMP and the MSZP, cannot be as strong in matters involving tens of thousands of workplaces, as a leadership formed out of today's opposition. A government aware of the support of millions of voters may take more courageous steps regarding matters that involve a few.

We must take note of the fact that since their traditional lobbying efforts have lost their base, managers are using the method of mobilizing workers with increasing frequency. This is the chief danger today, and a strong government can also resist this.

[FIGYELO] We noted that in the SZDSZ economic program "There is a way out!" the reduction of indebtedness ranks only sixth. What is the reason for this?

[Peto] This program was prepared fundamentally for the elections, and in our experience people are primarily interested in inflation. That is why we started out with this, and continued with other subjects that command public interest.

[FIGYELO] But even the contents of the segment that deals with foreign indebtedness is surprising. It recommends that interest payments be written off, that installment payments be suspended, and that the debt be converted to Hungarian enterprise stock. Is there an example in which creditors have permitted a solvent country to do that?

[Peto] There is no example. But since Hungary may easily reach the stage of bankruptcy, it would be rational to utilize such methods in order to prevent bankruptcy. Undoubtedly, this idea was prompted by constraint, but we should somehow be able to catch our breath.

[FIGYELO] It appears that the entire economic policy concept tacitly assumes the resolution of this problem. Because we would have to take a rather deep breath in order to quickly reduce inflation, for instance.

[Peto] There is no other possibility. Incidentally, recently the SZDSZ experts have been criticized by several persons for not identifying themselves with Kornai. Well, in his "Passionate Pamphlet" Kornai states outright that the debt must not be repaid. This takes much more audacity.

[FIGYELO] The SZDSZ projects tax reductions, and—for example, the program that details the management of unemployment—increased subsidies. Were calculations made to support this?

[Peto] There were, and in the framework of these we also projected reduced budgetary outlays. Our experts were able to work only with data that were available to them, of course. We will render our concepts in more specific terms if we become the governing party.

#### "They Will Have Problems Even With Their Own Voters"

[FIGYELO] It appears that there exists today within the MDF a group that is taking advantage of popular dissatisfaction, and another which is preparing in earnest to assume responsibility for governance. I suspect that the latter group is well aware that even if the former group contributes to the MDF's election success, politics which evoke emotions and create unfounded expectations may boomerang when the MDF becomes the governing party and is forced to make unpopular decisions. How could this contradiction be resolved?

[Bod] That is not the way I see the MDF. As its name reveals, this organization started out as a forum, and this character has survived despite the reorganization into a party. That is why the organization shows many faces to the public, and this has been brought into focus by our competitors in the course of the election struggle.

[FIGYELO] I do not believe that this amounts to focusing only. After all, the MDF's demonstration against food price increases in January, and then the February demand on television to freeze prices, and the incitement during the Leninvaros demonstrations against Karoly Grosz—not to mention at this point Istvan Csurka's statement, which provoked a huge storm—differ from the MDF chairman's staid positions.

[Bod] Dissatisfaction stems from the situation; it is not boosted by the MDF. Our endeavors aim much rather at constraining dissatisfaction within its proper limits. For example, the presidium received a number of letters from local MDF organizations asking whether they should join the mortgage interest tax boycott proposed by the Social Democrats. In contrast, in late January the MDF presidium called on the membership to abstain from civil disobedience, strike actions, and exaggerated wage demands. And in relation to harnessing inflation, it adopted a ten-point proposal, of which only one called for the restoration of the obligatory reporting of price increases, i.e. a "price freeze," and even that applied only to basic consumer goods.

[FIGYELO] On the other hand, the average person was able to learn about the MDF presidium's resolution calling for citizen self-restraint only from the small print news report presented by the National Press Service in the daily newspapers, while the demand for a price freeze and the phantom of insurrection caused by hunger were presented on the TV News. Along with that, the MDF announced that it does not intend to negotiate with the government concerning the management of social dissatisfaction, and here I am once again quoting an MDF presidium position published in small print. All of this does not appear to be entirely above board, considering the fact that prior to the submission of this year's budget to the National Assembly the MDF supported the steps to be taken by the government in the interest of preserving the country's solvency, as recommended by the International Monetary Fund.

[Bod] The government promised not only price liberalization, but also the invigoration of competition which would represent the economic barrier to price increases. It also promised to begin bankruptcy proceedings, and to decentralize the enterprise organization. None of the latter became a reality. Accordingly, the government did not comply with the agreement.

[FIGYELO] But then, why did you not call upon the government to keep its promises?

[Bod] We addressed all of this in the "ten-point" anti-inflationary program. Along with this we have been demanding clear information concerning the progress of spontaneous inflation ever since summer, and have raised our voices against abuses. Further, we demanded the suspension of the sale of cooperative land. All of this does not constitute demagogic populist demands, because even the IMF experts wonder about the peculiar Hungarian method of privatization. But for a long time,

the intertwined managerial stratum and state administration was able to prevent the National Assembly from establishing at least the State Property Agency.

We sensed the rather hostile fiber when we presented the MDF program not too long ago at the Economic Chamber. They immediately threw in my face the fact that what we call the selling out of the country is actually a wild offshoot of a healthy process. I did not receive an answer to the question of why they do not delimit themselves at least from the obviously outrageous cases.

[FIGYELO] As an opposition party the MDF has long criticized the bureaucrats of the party state and its enterprises, as well as its managers. I sense this to be in part objective criticism, and in part a trick that builds on the already mentioned popular dissatisfaction. But once you assume power, as expected, will it be possible to successfully play politics in the long term against the state administration and against managers?

[Bod] With regard to economic leadership positions, the MDF supports a restoration of the status of professional competence, and is opposed to the fact that party considerations repeatedly gain the upper hand. Specialized apparatuses must be preserved in the interest of maintaining the economy's ability to function. At the same time, as a result of the transition to a market economy, new kinds of people must be placed in a number of state administrative and enterprise positions. Accordingly, there will be personnel changes, but these must not take place on the basis of party considerations, except in regard to ministers, council chairmen, and other political functionaries.

[FIGYELO] Despite what you said, the MDF's February engineer-technician forum stated the goal of selecting the best professionals to perform the work that will be needed in government in the course of creating programs. Accordingly, it appears that the requirement denied by the MDF chairman, yet one that was allegedly stated at the forum, exists within the MDF, even if it is not prevalent. This calls for loyalty toward the MDF on behalf of people working in lead positions.

[Bod] The MDF is not a party of the Bolshevik variety, and its members have the right to hold separate views on various issues. For example, if an MDF member were to propose that all leaders in ministries down to the level of chief division head should be exchanged, I could say only that I disagree with that idea and that this is not part of our program. But no responsible leader has ever said such a thing, because we could not implement a broadly based exchange of cadres even if we wanted to. The MDF simply has no personnel that are suitable for this purpose. And incidentally, we are not the party which was rumored to have said that they have a sufficient number of experts to staff three governments.

And as far as enterprise managers are concerned, I regard the fact that in certain cases it was easier to dismiss

several hundred people than to change unsuitable managers as one of the important reasons for today's anti-management mood. It is equally ridiculous that if an enterprise is well off, its leader will claim to be a manager, but if things turn bad he becomes a bureaucrat tied into knots, implementing directions.

The antimonopoly stance of the postelection government will have a better chance because today's opposition personnel are not committed to enterprise leaders, in other words they will break the intertwining of the MSZMP, the state administration, and the leading strata of enterprises. The governing party will no longer be the captive of large enterprises.

[FIGYELO] Is it really true that the monopolies, the survival of insolvent large enterprises, may be reduced to subjective reasons like this? Would it not be true that the proneness of the prevailing government to extort on the basis of disturbances in supply, unfulfilled exports, and employment concerns played at least as large a role?

[Bod] Certainly. And this suggests that one must be able to make use of this to improve the operating conditions of the small and medium-sized enterprise sphere, since international financial organizations will grant the new government a pause to catch its breath, a grace period. Along with this I regard a firm antimonopolistic stance as necessary. Following the price liberalization of early this year I regard this as particularly urgent in the food industry.

[FIGYELO] This is indeed favorable from the standpoint of the majority. But you have not mentioned bankruptcy proceedings which may lead to mass unemployment. On top of that, this is made even more urgent than before and more unavoidable by the drastic shrinkage of the CEMA market, while the citizen listening to election propaganda may easily feel that a better world will follow automatically as a result of the "postcommunist" government.

[Bod] True, the expectations are great, and according to a large majority we will have a better life in a democracy. This is not prompted by promises made by parties; the reverse is true. Some parties make these promises because everyone expects this to happen. This much is obvious: Future governing parties will have problems with their voters. Also, the MDF must prepare itself for this spiritually.

Based on the already mentioned and hoped for grace period, I feel that maintaining solvency and the shortage of capital will not be the chief short-term problems, but instead we will have problems in maintaining the state apparatus' ability to function, and with enterprise leaders, bankers, and entrepreneurs as to whether they will be able to come up with concepts that are worthy of implementation.

[FIGYELO] Accordingly, you must gain the confidence of those whom you now defame, counterselect, and regard as persons who salvage power?

[Bod] This is true in part. But there will be a great difference. Thus far, the state administration has not been independent, because the party headquarters has been above it. Now the state administration will find itself in a new situation; it may show what it is able to accomplish from a professional standpoint. I am convinced that mostly competent professionals work within the various apparatuses, people who will be able to show now what they can do.

[FIGYELO] I trust you are not saying that the future government will not be influenced by party political considerations, as for example the endeavor to stay in power

[Bod] Quite naturally, I am not saying that. Nevertheless, the division of responsibility will become more clear. The politicians of governing parties will act more responsibly to convince the people of this country that the steps taken by the government are necessary and rational, even if they constitute constraints. On the other hand, the state administration will be responsible for the professional foundations upon which decisions are based. And it will really be up to the Hungarian people to decide whether we are able to make use of democracy as a resource. A series of governments may fail as a result of this process, but this is worthwhile if in the meantime the country is able to progress.

[FIGYELO] The Nemeth government is usually blamed for two things: for crippling the populace, and for delaying unpopular decisions. At present, in the course of the election struggle, the former criticism is more vocal, but after changing the government, when the new leadership will have to implement some painful measures, one may assume that the country will be abounding with the latter critique. Do you agree with this prognosis?

[Bod] There probably is some truth to it. The opposition expected the government to do everything in the interest of maintaining the economic ability to function, and that it not assume obligations in which the burden of compliance is no longer carried by that government. The debate sharpened particularly with regard to views concerning the already mentioned spontaneous privatization. This is dangerous because once something has been changed into private property, especially foreign property, it would be difficult to take subsequent action even in a case of obvious abuse.

Incidentally, the way I see it, an agreement appears to be taking shape within the opposition regarding views on privatization. The SZDSZ has departed from the view it has held thus far, namely that "the sooner privatization takes place, the better," and has come closer to our better controlled, more considered concept, which necessarily demands a slower pace. The MDF is opposed to spontaneous privatization not only on ethical grounds, but also because it would be an economic incongruity for the state to be left with foreign and domestic indebtedness.

while from a practical standpoint the privatized enterprises would be freed from such a burden.

[FIGYELO] What other peculiar features does the MDF economic policy have that differ from other parties?

[Bod] The main characteristic of the MDF economic policy is its style, i.e. the constant evaluation of whether individual important steps which are important from the standpoint of renewing the country will cause irreparable damage in other areas, whether they endanger the country's ability to function. Accordingly, we want to be radical while carefully avoiding the pathogen: We profess ourselves to be pragmatists, not grounded in ideology. Thus, for example, we do not advocate exclusive solutions with regard to privatization either.

Our program attributes great importance to the strengthening of the income and asset foundations of local autonomous governments, and through that the solidifying of the economic basis of the Hungarian countryside. In other parties perhaps a greater emphasis is laid on infrastructural development, and through that the importance of an economic policy which expands the supply.

The way I see it, like the SZDSZ, the Smallholders' program has approached ours. Their earlier, rigid, anti-cooperative agrarian concept based on the return of the land is beginning to resemble our two-step privatization concept, the essence of which is that we must first restore the ownership rights of the members, and then we must enable them to freely decide about the fate of their land.

[FIGYELO] These days most parties are appearing in public with a people's party program, and frequently try to seem that they are representing interests that are opposed to other party interests. Does the MDF have some kind of a characteristic base of support?

[Bod] Although we profess ourselves to be the party of the entire nation, we are perhaps the only party which has specified its chief base of support. This is comprised of the propertied citizenry, in other words, the middle class. We include here the small and medium-sized property owners, and those who want to become such owners, the people who have a trade or knowledge suitable for the pursuit of an independent enterprise.

Two strata are not part of our base of support. One is the group that works in administration; they are scared of all parties that want to see a market and want to decrease the bureaucracy. The workers at heavy industry enterprises which pollute the environment and have no future also present a problem. It is relatively easy to take this stratum to the street for a demonstration, but there is no party which can realistically promise a better future for it. On top of this, it would be hard to expect these people to take their lives into their own hands.

[FIGYELO] An oft-heard critique of the MSZMP is its collective party character, meaning that it accommodates people with many different views. I believe that the

same could be said about today's MDF. Instead of the not quite convincing reasoning which holds that the MDF is not a party of the Bolshevik type, should you not clearly determine that at least members of your presidium should agree on the positions they advocate, and that those who hold views regarding important issues that are different from the MDF program should leave and find themselves another party?

[Bod] Yes, that should be accomplished. Since last summer the MDF has been transforming; the reform communists have left us already, and those who sympathize with the People's Party idea, the Smallholders, and the Christian Democrats have "changed registrations." In addition to tactical mistakes, this will explain the MDF's 1989 year-end loss of position. If by any chance the MDF becomes the governing party, and must take positions on daily issues, this process of becoming unequivocal will continue. But I believe that this applies to the same extent to the rest of the parties.

#### **Elections Fraud in 1975, 1985 Recounted**

25000691F Budapest *HETI VILAGGAZDASAG*  
in Hungarian 17 Mar 90 p 18

[Unattributed article: "Goliath Also Cheated"]

[Text] For decades, voters in Hungary performed their duties as citizens in an orderly and disciplined manner. From time to time they "ordained" the sole candidates for Parliament with 90-plus-some-percent approval ratios. These candidates were presented to the people in the various voting districts by the Patriotic People's Front [PPF], the implementing unit of the Hungarian Socialist Workers Party [MSZMP]. (Only on occasion could one find multiple nominations.) Under such conditions there was hardly a need for election manipulations and refined tricks, nevertheless if there was, they have succeeded in keeping these manipulations and tricks a secret to this date. Perhaps the only exception was Zoltan Szep, the representative from Obuda who took his parliamentary seat in 1971 as a spontaneous candidate (HVG 27 April 85 [as published]), and whose reelection in 1975 was prevented by a no uncertain threat made by a Budapest party functionary: "We will not be able to guarantee your physical condition if you have yourself nominated again." This is according to the ex-representative.

It was not until the 1985 elections that permanent cracks occurred on the Patomkin wall of "socialist parliamentarism." The antecedent of this was the approval of the 1983 election law, which introduced a one of its kind "must democracy" in Hungary in response to an apparent indifference manifested by society toward Parliament. The law prescribed that henceforth a minimum of two representatives must vie for each mandate. Although the new election law also provided that all candidates must take an oath to support "the PPF program," the genie of democracy irrevocably escaped from the bottle. Those in power were able to prevent the election of a number of opposition and independent

candidates only at the price of obvious fraud. Without endeavoring to recall a comprehensive account of the 1985 election manipulations, here are a few tricks perpetrated by the People's Front at the time:

Rule No. 1: "Conspire: keep the nominating meetings a secret!" This advice was given by the PPF apparatus in many places as a matter of a favored approach. In some places however—e.g. where economist Tamas Bauer joined the fight as an independent candidate—despite all their efforts, information leaked concerning the time and location of the meeting, even though not a single poster announcing the nominating meeting could be found at the Gazdagret and Ormezo residential complex which comprises most of the voting district. This according to a then current report by the samizdat newspaper HIRMONDO. To be sure of things, certain PPF local activists performed some conscious deception from time to time in order to repel voters. This took place, for example, in Obuda, where writer Peter Szentmihalyi Szabo tried some acrobatics to place his name on the ballot as an independent candidate. "In the entire (Bekasmegyer) residential complex only a single poster appeared on one of the rear windows of the party building," he wrote as part of a selection of reports concerning nominating meetings in HIRMONDO Volume 3, No. 17. On the other hand, an announcement was posted on the front entrance of every building concerning the meeting of the district on the other side of the street, which began two hours after the meeting in the district where the announcements were posted. The suppression of information concerning nominating meeting was no coincidence, of course, because the nominating meetings were the decisive parts of the entire election process. Whoever was able to muster one-third of the votes at a nominating meeting was placed on the ballot. In the case of opposition personalities, this in itself would have been regarded as political sacrilege in those days.

Rule No. 2: "Stuff the room with reliable comrades!" The law provided virtually unlimited opportunity to do so, because in addition to residents in a given voting district, the workers at local enterprises and institutions could also participate in the nominating meetings. "Although the meeting officially opened at 1600 hours, enterprise buses rolled up in front of the Ministry of Food and Agriculture's Plant Protection and Agro-Chemical Center building a few minutes before 1500. Workers from Gamma Works and from Vertesz stepped off the buses. In addition to these workers, a large number of activists from three 11th district pensioners' party basic organizations were also present in the large conference room. Citizens arriving at 1530 could be seated on the somewhat more than ten empty chairs, if they were lucky," according to HIRMONDO on 16 April 1985 concerning the Bauer nominating meeting. This was not the only voting district, however, where voters who were told to appear and who favored order became the lead actors in the 1985 elections. The same thing happened at the nominating meetings held in the

Supreme Court building, and subsequently in the Ministry of Food and Agriculture building where, among others, then foreign minister Peter Varkonyi was challenged by the opposition's Miklos Tamas Gaspar in a highly hostile environment. The technique of excluding those who sympathized with the opposition was perfected only toward the end of the nominating campaign. On 8 May 1985, relative to a nominating meeting held at the Telecommunications Research Institute [TAKI], 150 voters were prevented by armed guards from entering the building that housed the meeting, and where biologist and independent candidate Janos Toth was trying to compete with official candidates Gyorgy Banffy and Edit Roder, whose campaign was managed by the organizers. This nominating meeting had only one small beauty mark: TAKI was not even part of the voting district for which nominations were made.

Rule No. 3: "Be 'clever' in counting the votes if everything goes wrong." Thanks to the cotton people that were ordered to appear at the nominating meeting, Tamas Bauer, Janos Toth, Miklos Tamas Gaspar, and several independent or opposition candidates were unable to obtain from the outset the votes needed for nomination. On the other hand, according to contemporary evaluations made by the samizdat press, Laszlo Rajk Jr. was dumped from among the candidates for representative as a result of clear-cut vote-counting fraud. At Rajk's second nominating meeting the presiding body announced a final result, the authenticity of which was questioned even by the legal research group present in the room. Based on a count of the number of seats available, the research group subsequently reconstructed the situation and found that at most 900 persons could be present at MOGURT headquarters instead of the 1,388 persons announced by the presidium. As a result, with 378 votes Rajk obtained the one-third plurality vote required for nomination at the second nominating meeting, just as he did at the first meeting.

Rule No. 4: "Render impossible any legal recourse." The abuses that took place at nominating meetings—and these qualify as fraud not only in regard to the application of the law, but also in the making of the law—could not be challenged in an open proceeding before a court, based on the 1983 election law. Objections to the elections were judged in closed session by the election presidiums, and this was tantamount to rejecting a series of appeals without providing supportive arguments. With this a full circle came about ... at that time.

#### Prosecutor To Investigate MSZP Complaint Against FKgP Official

25000691C Budapest NEPSZABADSAG in Hungarian  
20 Mar 90 p 5

[MTI report, and commentary by Supreme State Prosecutor Karoly Szijarto: "The Torgyan Case: It's Slander, Not Incitement"]

[Text] According to earlier press reports, the Hungarian Socialist Party [MSZP] has filed a complaint against

Jozsef Torgyan [official of the Independent Smallholders, Agricultural Workers, and Citizens Party—FKgP] charging incitement against the community. A statement issued by the Office of the Supreme State Prosecutor to MTI [Hungarian Telegraph Agency] reiterates the statement of the FKgP chief counsel published in the 22 January issue of MAI NAP, according to which "persons who do not make a 180-degree turn away from Bolshevik principles—the ones the Hungarian Socialist Workers Party (MSZMP) followed—profess fascist principles. This presently applies to the MSZMP, which did not sever itself from its earlier Bolshevik policies. But it also applies to the MSZP, which insists on retaining its property, government positions, i.e. its previous legal status."

Regarding the complaint, the Budapest Chief Prosecutor's Office adopted the legal position that Torgyan's statement did not constitute incitement against the community, but may instead qualify as slander. Accordingly, the prosecutor's office cannot represent the prosecution in this case, and will refer the case to the court for adjudication.

In response to this determination the MSZP filed a complaint at the Office of the Supreme State Prosecutor. It pointed out that considerable public interest is tied to the necessity of conducting the political struggle in a civilized manner. The Office of the Supreme State Prosecutor affirmed the finding made and the process followed by the Budapest Chief Prosecutor's Office, according to which the charge contained in the complaint qualified as slander. It changed the earlier determination to the extent that it directed the Budapest Chief Prosecutor's Office to represent the prosecution, to conduct an investigation, and to perform the prosecutorial functions that present themselves relative to these matters.

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Responding to our reporter's question, Supreme State Prosecutor Karoly Szijarto said that in essence this means that part of the MSZP's complaint was accepted, because they obligated the Budapest Chief Prosecutor's Office to represent the prosecution in court. On the other hand, it is quite natural that before doing so they will order an investigation into the matter, because a prosecutor will be able to perform this obligation only if he possesses accurate facts.

#### **Lawyer's Forum on 'Duty To Accept Responsibility'**

25000691H Budapest HETI VILAGGAZDASAG  
in Hungarian 17 Mar 90 p 74

[Interview with attorney Pal Bartfay, Independent Lawyer's Forum vice chairman, by Endre Babus; place and date not given: "Plan Concerning Duty To Accept Responsibility: Decorative Discrimination"—first paragraph is HETI VILAGGAZDASAG introduction]

[Text] Last week the Independent Lawyers Forum [FJF] proposed that Parliament should be able to initiate ex officio proceedings against the national political, economic, and military leaders of the country during the past four decades, and that upon the initiative of 50 persons eligible to vote, local committees should initiate similar proceedings against local leaders in order to reveal those who caused Hungary's economic crisis. Are you not concerned that the legislative concept developed by you may become the starting point for a war of revenge," we asked FJF Vice President, attorney Pal Bartfay.

[HVG] At Imre Nagy's funeral last year, Tibor Zimanyi had this to say on behalf of the former Reesk inmates: Those who are guilty should suffer the punishment of being called guilty. On the other hand, the legislative concept you publicized intends to introduce confiscation of property, reduction of pay and pension, and removal from office in regard to those who created Hungary's political and economic crisis. Why do you feel that the thus far peaceful change of the system should continue with political house cleaning?

[Bartfay] We paid meticulous attention to the fact that the legislative concept concerning the duty to accept responsibility by those who created the Hungarian crisis does not include any one of the criminal law categories you just mentioned, such as the confiscation of property. The FJF made a recommendation for the introduction of doing some kind of revolutionary justice. Our starting point was that the country finds itself in a catastrophic economic situation; it has accumulated a \$20 billion mass of foreign indebtedness. We are convinced that the crisis is a result of political and economic decisions made by specific persons. At the same time, a majority of those who created the crisis receive pension payments that amount to quadruples and quintuples of the average Hungarian pension benefit, and reside in impressive homes received from the state. Sooner or later a lynching mood may evolve in this country unless the law obligates those who created the crisis to perform on their duty to accept moral, financial, and labor law responsibility.

[HVG] On what basis did you draw this conclusion?

[Bartfay] The public reception of both the Czinege affair and the book "Petty Monarchs in Uniform" prove that the various abuses perpetrated by former leaders evoke an elemental outrage in the public. It is no coincidence that in December 1989 a Hungarian Democratic Forum [MDF] representative, and a few weeks later a Hungarian Socialist Party [MSZP] faction leader, introduced in Parliament the issue of holding former party and state leaders accountable. In February, the National Assembly adopted the "softer" proposal advanced by the Socialists. Correspondingly the financial accountability of the politicians of the past 10 years—only about 400 persons—has begun. Who knows whether the new Parliament will find this sufficient? In our view it is warranted

to examine the matter of responsibility with regard to leading officials who served between 20 August 1949 and 20 May 1988.

[HVG] You want to escalate the scope of holding people responsible, a scope that was designed by others to apply to a smaller group. According to the FJF's legislative concept, as many as several thousand committees to hold persons responsible could be functioning in the various settlements of the country. How many people would be affected by the procedure you devised? Ten thousand, a hundred thousand?

[Bartfay] Ex officio proceedings would be started against about 5,000 former or present national leaders. Undoubtedly there exists a semblance that a few social organizations want to settle this grave matter in a more grandiose fashion than we do. I am convinced, however, that if we translate into legal language the Committee for Historical Justice [TIB] proposal affecting persons who carry a grave responsibility for the illegalities perpetrated since 1945, this would involve a significant part of the 16,000 members of the Rakosi era political police, and a significant proportion of the judiciary and the prosecutorial apparatuses.

[HVG] Proposals thus far have tried to limit the scope of those morally responsible by placing the proceedings in the hands of a single parliamentary committee, and do not decentralize those proceedings the way you are planning to.

[Bartfay] Permitting a parliamentary committee to decide whom to summon and whom not to summon would provide an opportunity for an impermissible discriminatory practice. A legal provision must be framed which settles this issue so as to reassure both society and those involved, on the basis of which leaders who could have anything to do with the evolution of the crisis would be made to respond. The scope of persons who may become involved must be defined, of course. In regard to national leaders, the duty to accept responsibility should be determined by between 50 and 60 representatives and experts acting through parliamentary committees composed of between three and five members. This is also true according to our proposal. Such determinations should be made in cases when the affected persons are unable to prove that they have conducted themselves in such a manner as could have been expected in the given situation from the holder of that office. This formula corresponds to the property law responsibility principle, which has its roots in classic Roman law, and which is contained in Paragraph 339 of the present Hungarian Civil Code of Laws. Accordingly, we believe that in this case we are not dealing with criminal responsibility, but with civil—i.e. property—responsibility instead, specifically with responsibility for causing serious damage, which has undoubtedly taken place. In cases involving local leaders—in contrast to national leaders—the committee proceeding in the

matter would have to prove that the persons involved did not proceed in a manner consistent with the given situation.

[HVG] In every modern country the administration of justice is the monopoly of the judiciary. Why would you want to depart from this principle?

[Bartfay] As far as I am concerned, due to the criticism received from many sides I increasingly feel that consideration should be given to the idea that ordinary civil courts conduct these proceedings. I will note here that from the outset we wanted to ensure an opportunity for legal recourse against decisions reached by the committees.

[HVG] Why could you not be satisfied with a solution in which only those former officials who committed criminal acts would be prosecuted on the basis of the Criminal Code of Laws? And moral accountability would suffice wherever there is no opportunity to initiate criminal proceedings.

[Bartfay] Criminal responsibility could not be invoked in regard to most persons involved, because of the statute of limitations. At the same time, moral condemnation is no answer to the injustice mentioned by many, by which those who caused the crisis of the past years continue to live under privileged circumstances to date.

#### **Large-Scale Communist Party Property Salvaging Alleged**

25000692B Budapest NEPSZABADSAG in Hungarian  
23 Mar 90 p 8

[MTI report: "Checking at the Court of Registry: A Multitude of NEXT 2000's?"]

[Text] Economic scandal: A multitude of NEXT 2000's were formed; 30 billion forints in state property squandered; and this is only the tip of the iceberg. These were the opening announcements at Thursday's briefing by Csaba Paska, head of the environmental protection division of the Bajzsi-Zsilinszky Society [BZST] at the Gellert Hotel. As he said, in the course of their examinations, the BZST and the Green Party's 6th district environmental protectionists ran across data which indicate that the squandering of state property is taking place on a large scale, in an uncontrollable manner, and in secret.

To prove all of this, Paska said that based on their exploratory work performed during the past weeks it can be established and proven that from among the several thousand limited liability corporations registered at the Budapest Court of Registry several were formed for the purpose of salvaging property or for real estate speculation.

Based on the examinations, the BZST and the Green Party's 6th district organization will present the facts to a parliamentary committee, and will also report their findings to the State Accounting Office. They will appeal

to the Constitutional Court in the interest of changing as soon as possible the land law, the legal provisions concerning economic transformation, and the law on business organizations so as to discontinue the loopholes which in the view of the two organizations enable abusive practices.

### Court Finds Communist Party Property Transfer Unlawful

250006924 Budapest NEPSZAVAT in Hungarian  
21 Mar 90 p 16

[Article by (s. b. a.): "Transfer of Property Contrary to Law; Test Case Against MSZMP Cimbriana, Limited"]

[Text] The suit initiated by the Independent Lawyers' Forum against the NEXT 2000 and Cimbriana limited liability corporations may be deemed a success. In a judgment pronounced Monday the Budapest Court declared Cimbriana's registration to be contrary to law, and rejected the petition regarding NEXT 2000, arguing that there was no need for a trial because the Hungarian Socialist Party [MSZP] has already ordered liquidation of the company, and the Court of Registry did not agree to the attempted transfer of the property.

Let us recall this issue. The Hungarian Socialist Workers Party [MSZMP] took advantage of available opportunities and transferred part of state property—resorts, vacation homes, industrial establishments, over which the MSZMP enjoyed management rights—to the ownership of single person limited liability corporations established by the MSZMP itself. Establishment of these corporations occurred at a time when the land law prohibiting the transfer of property had been promulgated already, but prior to its effective date. The Budapest Court had no objection to this; at the same time, however, in regard to Cimbriana Limited Liability Corporation it established the fact that the provisions prevailing then required that in cases of assets and property transference, real estate may be transferred for identical use purposes only. In this case the intended use was different.

The decision is not final because the Budapest Court acted in the first instance.

### State Funding of Social Organizations Detailed

90EC03264 Budapest FIGYELO in Hungarian  
1 Feb 90 p 7

[Article by Emilia Sebok: "State Money for Social Organizations"]

[Text] This year the National Assembly has earmarked 544 million forints of the state budget for support of social organizations. That is certainly much less than these organizations received last year. This time, however, members of the National Assembly must eat what they have cooked; because the public assembly law does not deal with this issue, the thoroughly shriveled sum

must be distributed by a temporary parliamentary committee (advisory board) on the basis of principles approved by the National Assembly. (Members of the committee are delegates of certain representative groups). Thus the social organizations that up until now have obtained state subsidies based on the success of talks conducted with the Finance Ministry must now accept the advisory board's decision. There is no room for complaints or appeals.

The advisory board cannot count on being very popular at the outset, because the requirements for subsidies submitted thus far by various social organizations amount to nearly 3 billion forints altogether, while 544 million forints are available. Yet the decisions must be made as soon as possible, so that those who receive aid will know how much, and those who do not receive aid can look for other sources. But what makes the matter most urgent for the five-member committee is the fact that until it decides how to divide up the money, the Finance Ministry will only grant the smallest payments if the latter are approved in writing by all five. This is an extremely cumbersome procedure, however. These organizations would like to operate until a decision is made, and if they have no other income (membership dues, their own undertakings, pledges by individuals and companies), then naturally they knock on the doors of National Assembly members. This is how in January several organizations that perform so-called human services received advance state subsidies for 1990. (Let us just consider, for example, the recently renewed activity of the Red Cross in connection with events in Romania.)

Let us return, however, to the principles of distribution. At its 21 December session the National Assembly adopted certain noteworthy viewpoints which in the meantime were given tangible form and supplemented by the advisory board so that it could tackle the assignment with some honesty. But publicity is also a part of honesty: That is why all aspects of the distribution will soon be published, and then the distribution itself. But meanwhile let us look at the most important principles:

—In 1990 only social organizations which provide human services or further public interests can receive a sum larger than last year's;

—Trade unions and political parties cannot avail themselves of this money;

—Funds appropriated for the year 1990 can be increased in the meantime because of the incoming demands of social organizations newly formed in 1990;

—State money is not completely withheld from organizations that have been supported up until now if this would result in the organizations' shutdown, because the committee cannot decree whether or not an organization should exist. But if some organization asks for support to restrict or terminate its activities, that request must be honored;

—No organization that receives support from some other budget source—for example, a ministry or a separate endowment—can avail itself of these funds.

The principles are unambiguous and reasonable in the current fiscal situation, though compliance with them has painful consequences for several organizations. Even in this aspect, however, life is too complicated to be managed on the basis of a few principles. For example, the biggest problem is the case of the Patriotic People's Front, which received 314 million forints from the budget last year and did not request much more for this year. (Which is strange because the advisory board knows that the People's Front plans a wide-scale cutback in staff). Yes, but how should this organization be treated if it changes into an electoral party and thereby loses its character of a social organization? Or how is the situation described in which the People's Front is not a party but creates an electoral coalition? Who then withdraws state support that is allocated on the basis of social organization status? After all, this advisory board is provisional only because it consists of representatives of the current National Assembly. But the question of new requests during the year was not clarified, and the only answer to it is, of course, if this committee provides reserves.

No decision has yet been made, but it is certain that mainly organizations which perform human services and operate in the interest of disadvantaged social groups can hope for state support. The remaining organizations must urgently seek other sources if they want to survive.

#### Support for Social Organizations\* (in thousands of forints)

Name	Received in 1989	Promised for 1990
Hungarian Red Cross	147,500	241,000
National Alliance of the Blind and Visually Impaired	22,76	25,000
World Federation of Democratic Youth	—	35,200
National Peace Council	29,859	41,990
Hungarian-Soviet Friendship Society	39,338	39,000
Hungarian Solidarity Committee	—	64,000
Youth Organizations	795,324	1,200,000
National Federation of Hungarian Journalists	52,319	52,319
Alliance of Hungarian Women	—	11,000
Hungarian National Defense Association Rifle Clubs	—	100,000
Federation of Technical and Scientific Associations**	59,000	181,000

\* This list is not complete, of course, and the selection is subjective

\*\* This year it also receives last year's sum from the Council of Ministers.

## POLAND

### Constitutional Definition, Court Ruling on German Minority Examined

90EP0464.4 Warsaw RZECZPOSPOLITA in Polish  
14 Feb 90 p 4

[Article by Krystyna Grzybowska: "Citizenship and Ethnic Background. A Constitutional Concept"]

[Text] The Founding Committee of the Socio-Cultural Association of the German Minority in Opole [Lower] Silesia wanted to register its association because, as it maintained, for a long time a group of persons of German descent who desire to preserve their language, culture, and customs has lived in this area.

The Voivodship Court found that, despite the petition referring to the registration of a socio-cultural association, something else was essentially at issue, namely, securing formal recognition of the existence of the German ethnic minority in Opole Silesia. In turn, this actual issue is in a certain sense a category of international law, and cannot be regulated by the law on associations.

In addition, the court found (in conjunction with the declaration of petitioners stating that they are of German ethnic background or descent) that in Opole Silesia there are no persons of German ethnic background, firstly, because after World War II the population of the regained lands was checked out, and Polish citizenship was acquired only by people who gave evidence of their Polish descent or bond with the Polish people and pledged their loyalty to the Polish people. The verification was based on establishing Polish ethnic background, but it did not amount to conferring Polish ethnic background. The persons who did not give evidence of their Polish descent left for Germany. Secondly, further persons of German ethnic background left Poland in later years within the framework of so-called family reunification. In this fragment of its reasoning, the Voivodship Court proceeded from Article 13 of the Potsdam Treaty dated 2 August 1945, the agreement of the Allied Control Council for Germany dated 20 November 1945, as well as the order of the minister of regained lands dated 6 April 1946 on procedures for establishing Polish ethnic affiliation of the persons residing on regained lands (DZIENNIK URZEDOWY MZO, No. 4, item 26), the law dated 28 April 1946 on the citizenship of the Polish state on regained lands (DZIENNIK USTAW, No. 15, item 106), as well as the law on Polish citizenship dated 8 January 1951 (DZIENNIK USTAW, No. 4, item 25) and 15 February 1962 (DZIENNIK USTAW, No. 10, item 49).

In the opinion of the Voivodship Court, under the circumstances it cannot be acknowledged that the statement by a certain group of people declaring their affiliation with the German ethnic group is sufficient for stating that "a German ethnic minority" exists and thus for registering the association. Such registration would contravene Polish law (Article 84, paragraph 3 of the Constitution).

In the opinion of the court, the issue of recognizing the existence of a certain ethnic minority should follow from international conventions or domestic legal regulations setting forth the criteria for classifying individual persons as having a particular ethnic background; meanwhile, there are no such regulations.

What did the Supreme Court to which the Founding Committee appealed have to say?

Pursuant to Article 2 of the Constitution of the Republic of Poland (as amended on 29 December 1989—DZIENNIK USTAW, No. 75, item 444), the supreme authority in the Republic of Poland belongs to the people, who exercise it through their representatives elected to the Sejm, Senate and people's councils; by virtue of Article 20, paragraph 2, the Sejm is the supreme expression of the will of people. Therefore, if, pursuant to Article 95 of the Constitution, any citizen over 18 years of age regardless of, among other things, ethnic affiliation, has a right to elect, then, in keeping with the Constitution, any citizen of the Republic of Poland belongs to the Polish people (in terms of, among others, Article 2, paragraph 1 of the Constitution) even if he does have (or does not declare) Polish ethnic background. The Constitution treats ethnic affiliation as a personal right, like racial affiliation or religion, stating straightforwardly in Article 67, paragraph 2 that "the citizens of the Republic of Poland have equal rights regardless of their sex, birth, education, profession, ethnic background, race, religion, and social background and position." Therefore, the ethnic affiliation of citizens of the Republic of Poland, like religious affiliation, does not have legal character because all civil rights and duties due by virtue of belonging to the Polish people are derived from having the citizenship of the Republic of Poland.

The constitutional concept of citizenship and ethnic background is confirmed by the laws on Polish citizenship and on documenting the populace and identity cards (uniform text—DZIENNIK USTAW, 1984, No. 32, item 174).

The former law, while setting forth the guidelines for the acquisition of Polish citizenship, does not predicate it on having Polish ethnic background. Specifically, Article 8 suggests that Polish citizenship may be given to foreigners without a prior declaration on changing their ethnic affiliation, that is they may be given Polish citizenship while preserving their ethnic affiliation to date. The latter law suggests that the identity card is issued to Polish citizens regardless of their ethnic background which is not indicated in the identity card.

The Voivodship Court found that after World War II persons who did not give evidence of their Polish decent or their bond with the Polish people in the process of verification had been resettled from the areas of regained lands, and consequently it concluded that persons of German decent did not remain in these territories. Despite this conclusion being logical, the Voivodship

Court undermines its opinion in admitting that further persons of German ethnic background left Poland and departed for Germany within the framework of the so-called family reunification after 1950. It follows from the above that the process of verification of the populace residing on the regained lands carried out in execution of the Potsdam agreements was not performed fully, and at the same time there is no foundation to conclude that all persons of German decent left Poland within the framework of the so-called family reunification. As a result, there is no foundation for accepting that there are no persons of German decent in Opole Silesia.

The view that ethnic minorities, and specifically the German minority, do not reside in the territory of Poland is unequivocally contradicted by Points 45 and 50 of the joint declaration of Poland and the FRG dated 14 November 1989 in which both parties assumed the obligation to give an opportunity to the persons and groups of Polish or, respectively, German decent, or persons subscribing to the language, culture, or traditions of the other side, to maintain and develop their cultural identity (Point 45), and confirmed the right to create associations for preserving the language, culture, and traditions of the other country in keeping with the legislation of each side (Point 50).

The above unequivocally suggests that the Polish side recognized the fact of the existence of the German minority.

Likewise, the Supreme Court did not share the view that the registration of an association whose founders declare their German decent would contravene Polish law. After all, a different ruling of the Voivodship Court would bring about the infringement of the civil rights of persons who have Polish citizenship (in violation of Article 67, paragraph 2 and Article 84, paragraphs 1 and 2 of the Constitution), and with regard to the right to form associations—also the provisions of the law dated 7 April 1989 the Association Law (DZIENNIK USTAW No. 20, item 104), which guarantees the right to form associations to Polish citizens irrespective of their ethnic backgrounds (Article 1), and even the right of foreigners to form associations (Article 4).

Therefore, the registration of the association does not bring about the legalization of the German minority in Poland because the existence of an ethnic minority in Poland is not a legal category, and does not require legalization, but rather is an objective fact confirmed by the Government of the Republic of Poland.

Given this state of affairs, the Supreme Court overturned the ruling being appealed, and referred the case to the Voivodship Court to be studied again with a view to determining the compliance of the statute with the law which the Voivodship Court has not done thus far, while refusing registration for other reasons. Eventual apprehensions that the registration of the association may endanger peace and public order are erroneous inasmuch as the law on associations regulates, in Chapter 3, the

oversight of associations by the appropriate organs. In the event activities contravening the law or the statute are found, even the dissolution of association may be demanded within the framework of this oversight.

## YUGOSLAVIA

### Swedish-Type Socialism Predicted for Serbia

90EB0318B Belgrade NIN in Serbo-Croatian 11 Feb 90  
pp 16-19

[Interview with Dusan Mihajlovic, vice chairman of the Executive Council of the Serbian Assembly, by Teodor Andjelic in Belgrade; date not given: "Serbia Is Turning Toward the Individual Citizen"]

[Text] It is presumably because in his previous position (president of the Valjevo Opstina Assembly) Dusan Mihajlovic, who is a lawyer, displayed reformist tendencies that he has even now been given a reformist role as vice chairman of the Executive Council of the Assembly of Socialist Republic [SR] Serbia.

Knowing that several laws are being prepared in a great hurry which are to make it possible for Serbia to join the ranks of free and modern states, the editors of NIN called upon Mihajlovic to answer its questions about the conditions under which this job, which marks a turning point, is being undertaken and about the changes which should be expected.

The conversation in the editorial offices of NIN began with a question about the so far unrealized postwar dream of citizens of Serbia and Yugoslavia for a law-governed state.

Here is what Dusan Mihajlovic said:

"The law-governed state presupposes the rule of the Constitution and laws. Which means that all relations between people are regulated on the basis of laws, not by party coercion or some subjective will. There is no place in it for the power and domination of a single party, a single idea, a single opinion. I do not think that the multiparty system in and of itself offers a guarantee of democracy, since several parties can also come together on narrow-mindedness, but as a matter of principle the multiparty system offers an opportunity for creating an organized and effective opposition, which in essence signifies that the public exercises effective democratic oversight over the work of government bodies. That system actually does give the citizen the possibility of a choice. If he is dissatisfied with the status quo, with the work and functioning of the government, in free and secret elections he can vote for other and better representatives and for a different and better government."

[NIN] Might it be said, then, that our big problem and failure in political and economic matters occurred in fact because a real opposition did not exist?

[Mihajlovic] Right. That is why the structure of both the party and the government became bureaucratic, became sufficient unto itself, and proclaimed anyone who communicated a different opinion an enemy to be removed from the public scene.

[NIN] Tell us why there has been so much hesitation with the reform? Is it true, as has been sometimes asserted, that those reforms were postponed because of the Kosovo troubles?

[Mihajlovic] It is clear that Kosovo, which has indeed been "the costliest Serbian word," must not and cannot be an excuse for postponing reforms, economic and political. Any halting of the process of democratization would be disastrous, and I think it would soon take revenge on us. It might even be said that the problems in Kosovo in fact occurred and escalated because of the nonexistence of a law-governed state and democratic life, work, and behavior in Yugoslavia.

[NIN] There is, of course, the historical legacy as a source of problems, and it is not only the rule of the party that has been to blame for the situation in Kosovo. It is indeed one of the causes, but not the only one, and perhaps not even the most decisive one. There are ethnic enmities and religious conflicts even in democratic systems.

[Mihajlovic] I have the impression that under better circumstances, in a law-governed and democratic state, the Albanians would also realize more quickly what their real interests are. They would realize that there is no force that could separate Kosovo from Serbia and that the problem today is no longer how to protect the Serbs and Montenegrins. The question now is how to protect the well-intentioned Albanians from the disaster they are being enticed into by their nationalists and separatists. And how to save them from the misfortune to which they have exposed themselves by their own will. Where is money received without work, where are rights granted without obligations? Incidentally, the treatment of terrorists in all countries which we call democratic and law-governed is well-known.

[NIN] What is being done now in Serbia so that we will get away from the rule of nationalities and arrive at a rule of citizens? Which laws are being changed? And you did not answer the question about a certain hesitation of entering upon changes in Serbia.

[Mihajlovic] It is a mistaken impression that anyone in Serbia or the leadership of Serbia was working against democratic changes, the multiparty system, against constitutional and legal reforms. We have evidence to support this assertion in all the documents which have been adopted by the highest bodies of government in the republic, beginning with the documents of the Commission for Reform of the Political System, which was adopted by the Presidency of Serbia, all the way to the most recent initiatives coming from that same Presidency.

[NIN] The laws which are being prepared actually rely on those initiatives?

[Mihajlovic] Yes. The Law on Political Parties is being deliberated right now. Its adoption will be accompanied by adoption of other acts which are supposed to facilitate democratic life and the multiparty system. They are the Law on Elections and the Law on Public Information. Serbia will, of course, be amending its Constitution as well in order to facilitate what we have been talking about.

[NIN] How is one to account, then, for that portrayal of Serbian slowness and hesitation to enter upon changes?

[Mihajlovic] The problem perhaps arose because of an erroneous interpretation of Serbia's fundamental position that in a federal community like Yugoslavia the most logical thing is for us to first agree about our common home, and only then let each one think about himself. You probably remember how many times it has been said in Serbia that we should first amend the Yugoslav Constitution, and then undertake amendments and supplements or adoption of new constitutions of the republics and provinces. This fundamental position has been interpreted distortedly: Serbia supposedly is hanging back, waiting, erecting obstacles, shying away from opening the doors of democracy. That has been said by the same people who have been blocking amendments to the federal Constitution. No reasonable person can explain their behavior otherwise than the obstinacy of separatists, as an act to break up the Yugoslav Federation.

[NIN] Still, we must remind you that statements were made in Serbia from political rostrums against reforms, against the multiparty system.

[Mihajlovic] There have been, I agree. But I must remind you what political pluralism means. It is a struggle of opinions, a struggle of ideas, and the right to differ. Why should we who are advocating pluralism be bothered by a different opinion?!

[NIN] I reminded you of that opposition so that we could ask you about the difficulties and the balance of power. How much resistance is there to reforms in Serbia? How many people are there in the so-called structures who are pledged to monism, and how influential are they now? How much trouble are they causing you?

[Mihajlovic] I have not counted them, but I think that the resistance is not in the leadership that is framing the republic's policy. Indeed, I see my task as that of carrying out its commitments, the commitments of the republic's leadership, together with all those who have a place and a role in that. In other words, this is a designing job, and a new, up-to-date, law-governed, and democratic Serbia is being created. The Executive Council should be thinking about the legal aspect of the job, about preparing the proposed versions of legislative bills and proposals for amending the Constitution.

[NIN] Will Serbia also advocate the repeal of certain anachronistic federal laws? For example, will it call for repealing the Law on Protection of the Name and Career of Josip Broz?

[Mihajlovic] Those who passed that law, I would say, had an illusion from socialist realism that life and opinions can be prescribed by decisions from above. No one's name and no one's career can be defended by a law. The only true judges of names and careers are time and the people.

[NIN] That law is in effect, but it seems that the authorities are not applying it, at least not in Serbia. Or does your information differ? Perhaps we should actually see who was the last person in Serbia to be tried under it and who has been attacked because of his opinion.

[Mihajlovic] You would know that better than I would. As far as I am aware, the members of the academy who wrote the unfinished memorandum of the Serbian Academy of Sciences and Arts were the last who were attacked because of their opinion.

[NIN] Only in political terms, not under the law.

[Mihajlovic] In Serbia, those matters were cleared up immediately after the eighth meeting. The provisions of the law on the verbal crime still have not been formally repealed in Serbia, but in effect they have. But in the other republics there have been people called to account under that article. Jovo Opacic, for example.

[NIN] Even in Serbia that presumably would have occurred if there had not been decisions to halt the insanity. After all, we must recognize that the negative personnel policy (favoring people with little knowledge and a high rate of inconsistency) left a wasteland on the public scene. Today we have a paradox: there are people accustomed to the monopoly of power, and we have to use them in carrying out serious and far-reaching reforms. Is that possible?

[Mihajlovic] If you are referring to the way personnel policy was conducted in the previous period, then I agree: we cannot expect support from the people whom the reform will remove from the political scene. We know that, that is no secret at all. We know what we are for, and we know why we came to this position, and why Serbia consented to the 1974 Constitution. But you have seen the kind of pressure that has come from the people and how powerful the demands for change have been. No one and nothing can resist the unified people. There are people, there are people in official positions, who will offer resistance, but that is their problem, their trouble, and their hell. I do not like to think about the kind of fate that awaits them. Obedience will no longer be a virtue, and they remain people without "virtues."

[NIN] Here is a question from real life: Exactly a year ago people were taken into the misdemeanors court in Smederevo because they celebrated New Year's, the

Orthodox one. They were even sentenced to jail. Could anything like that happen today?

[Mihajlo] May those times never return. But I would like to say that it is no longer a question of a legal program, but of political will. This was a gesture of primitivism, of that primitivism which has also been so costly for us.

[NIN] The goal of these reforms is in fact to eliminate the possibility that primitivism will prevail, to make official the political freedoms that have been adopted, and to create a system in which people's happiness will not depend on the political will of this or that leadership team. We will have different rules, isn't that so?

[Mihajlovic] It should be borne in mind that a world process of liberation is taking place now and that we could not remain outside it even if we wished. We might say that this is the end of the great ideologies, not only the communist ideologies, but ideologies in general, and the great human utopias, and illusions, theories which promised people a new man, a new society, and a better future instead of a tolerable present.

I personally think that reform should not be based on any new and great concept in ideological theory. They must be extremely pragmatic and rational and based on extremely simple solutions. The law-governed state regulates human relations on the basis of a constitution and laws, and everything in it is allowed that is not prohibited. The limit of my freedom is fixed by the limit of your freedom. We must go back to the basic principles of democracy so that we can rid ourselves of the numerous troubles and unburden our conscience of the nightmare we have been in and in which we crawled on all fours wondering what was allowed at the particular moment and how some particular act of ours would be interpreted in the places where it counts.

I repeat: the multiparty system will not in and of itself bring us that improvement. We will not all of a sudden become a democratic society no matter how many parties we create! We are also forgetting that the parties before the war clubbed each other on the soil of Serbia. We are forgetting that some of them betrayed the country, that some led entire nationalities to slaughterhouses and concentration camps.

Our problem did not lie in the nonexistence of the multiparty system, but in the fact that the individual citizen was not placed at the center of political life and was not sovereign. His majesty the individual citizen, if I might put it that way, has the right to elect and be elected, has the right to freedom of thought, freedom of expression, and freedom of association. And all parties should be examined from that standpoint of the freedoms of citizens. They cannot be any new authority or a new democracy apart from the citizens. They are here to facilitate the freedom of citizens to associate in order to achieve their political goals.

[NIN] And it is the state that will guarantee the citizen freedoms?

[Mihajlovic] I see political parties as only services of the citizens, as assemblages of like-minded people who dispute and struggle with other assemblages so that benefit to the citizen and the state comes out of that interaction. Let me immediately add: the entities of parties which oppose the basic standards of civilization, which attempt to incite racial, ethnic, and religious enmity, which desire conflict and do not stop short even of criminal acts will not get an operating license. Both you and I know that there are multiparty systems in which certain parties or coalitions of parties have guaranteed themselves a period of dictatorship through election victories. That is why I say: the political party cannot be a replacement for the citizen. Making a fetish of the multiparty system and multiparty democracy can also degenerate into its opposite, since the essence of party life is based on the voluntary principle, on the absolute voluntary principle, on life without any coercion whatsoever.

[NIN] When they asked Borges why he did not like communism, this was his answer: "I was brought up to cherish and respect the individual, and communism is a system which thinks only of the mass." From what you have said, from this advocacy of the individual rather than the mass, it turns out that we have even officially parted company with the communism about which Borges was speaking. It would be good, then, to know where Yugoslavia is going now and where Serbia is going.

[Mihajlovic] I will be very happy to answer that question for you. When I said that the end of the 20th century had brought an end of ideologies, I thought that we would not even touch upon the destiny of communism anymore in this conversation. Now, I must tell you that what we call communism or socialism or capitalism cannot be co-opted by a constitution and laws. Life is lived in the real relations which people have, and any transfer of our goals to enactments does not signify that the goals have been achieved. There are well-known examples in history where we have had the most democratic constitution and laws, but terror in practice. Accordingly, what we call socialism, this is a matter of our political commitments, of actions in the political struggle to bring this about in reality, but we should no longer proclaim the social order in the law and the constitution, since anything can be put on paper, and life goes on in spite of those proclamations. That does not mean, of course, that our state, just like other democratic states, should not assume a number of functions in social welfare and recognize in law rights in social welfare, the minimum of social protection for all its citizens. This must be done in keeping with real possibilities. Why do I mention real possibilities? Because now the gap between the rights which we have prescribed in our Constitution and real life and the situation which we have in the country seems tragicomical. Let us start with the right to work and the right to free elementary education!

[NIN] Are you a socialist?

[Mihajlovic] Yes.

[NIN] And how do you see the socialism of Serbia in the future?

[Mihajlovic] President Milosevic has said that socialism means the situation and relations such as exist today in Sweden. I think that that is an accurate statement. Many socialist and communist theories are based on ideas of equality of all men, on demands that everyone have the same opportunities, that they live equally well. But the achievement of those commitments has been greater and better in countries which we called capitalist, in countries with a market economy, than in the countries of real socialism.

[NIN] In short, you do not believe in visions, but in work, and it is your intention that Yugoslavia will have some leading role in the world.

[Mihajlovic] I think it is clear to everyone how much we have paid for the endeavor for us to be original at any price and to arrange human relations at any price differently than those in the East and those in the West, for us to be the only ones in the world. We know that water runs downhill (except under pressure) and we know that this world has not imagined a lesser evil than the market for regulating economic relations. And to conclude this tale of mine about ideologies and systems. There is something worse than communism: anticommunism!

[NIN] What you are advocating, then, is that the Constitution not be written in political language. What will the Constitution of Serbia actually be like?

[Mihajlovic] As I have said, it should define Serbia as a law-governed democratic state. Beyond that: the state must be uniform over its entire jurisdiction. And it must naturally be a part of the Yugoslav community. Serbia is committed to a federation, not to a confederation, and that commitment does not follow from any ideological goals, but from extremely pragmatic ones. History has demonstrated that federal communities that function on the basis of a unified market and uniform economic conditions on the unified market function closer to the economic optimum and more efficiently than confederative communities which function on the principle of a common market. History has wiped out confederations! It is clear that when it comes to political organization, only one sentence can be written in the Serbian Constitution: political organization in Serbia is unrestricted. This incidentally has been published in your esteemed newspaper. And that says it all.

[NIN] And the election system?

[Mihajlovic] It has been clearly stated that Serbia is committed to free, direct, and secret elections. This means that every citizen who has the right to vote will be able to elect and to be elected or to nominate on his own or together with others his own candidates for official government position, from the local community to the

Federation. It is also clear that in the context of the multiparty system we will not be able to have the same assemblies. They cannot have sociopolitical chambers, and very likely not chambers of associated labor either. In practical terms, it is a question of a different manner of representing and acting on behalf of citizens. Thus, even the republic assemblies will probably be unicameral. And all the others. The Federal Assembly must have a chamber of federal units because of the federal nature of the Yugoslav community. Beyond that, the Basic Premises... proclaimed advocacy of the principle of division of powers, which presupposes transformation of the Executive Council into a government that will be accountable to the parliament or Assembly. It was also said that that kind of new and reformed state also needs an independent judiciary.

[NIN] That is in any case one of the essential elements of a law-governed state.

[Mihajlovic] There will no longer be any dispute whatsoever on that point. An independent judiciary will even now be created by adopting the unlimited term in spelling out the conditions for the election of judges and conditions for removal of judges. All voluntarism will be avoided, and there will be no basic forms of political organization so as to achieve this in government bodies and in the judiciary. This means that in the courts and in government bodies we will no longer have basic organizations of the League of Communists, nor indeed any other political organizations, since this is indispensable if we are to implement one of the principles of the law-governed state which we have mentioned: the independence and self-sufficiency of the government administration as a whole.

[NIN] Can you announce the dates for those changes of which you speak? Tell us when we will have the election law and the new elections?

[Mihajlovic] Write what you know. The election law is being deliberated and will be adopted at one of the upcoming meetings of the Assembly. At the press conference, when the election conference of the Socialist Alliance was being prepared, we said that we would probably have elections. I think that we will adopt all the necessary legislation very quickly, in a time that no longer depends on the will of anyone in Serbia, but on the time necessary for a democratic public procedure. Since you are so curious, I will tell you: I expect that this will be before the end of this year or possibly at the beginning of next year.

[NIN] And when is the law regulating the party system to be adopted?

[Mihajlovic] In the next session of the Assembly.

[NIN] The Law on Information has been passed, but at the same moment it was said to be outdated.

[Mihajlovic] When the Law on Public Information was adopted, I promised that the Executive Council would

immediately prepare adoption of a new law. I said: if necessary, we will undertake to amend the Constitution. After all, the Executive Council was not against the demand of the youth delegation and a number of other delegates to adopt and make official certain ideas about freedom even now. The present law on public information was amended in order to enforce the provisions of amendments to the Serbian Constitution. Previously, we had three laws and the enforcement of enactments was not uniform. We have corrected that chaos, and along the way we have made an effort—within what is possible now—to democratize the law. It is obvious that we are not satisfied with this and it does not meet the higher requirements of a democratic public. I can say with sufficient certainty that the text of the new law will very quickly be in front of the delegates in the Assembly. It is quite certain that some of the present arrangements cannot survive since they have actually guaranteed sociopolitical organizations monopoly and oversight over the news media (through publishing and programming councils, through appointments of editors in chief and managing editors), over public expression in general.

[NIN] Will all newspapers and all radio and television institutions be in the same position?

[Mihajlovic] The Law on Political Organization and the Law on Public Information will state that every political party may issue its newspaper or make its information public. Which means that they may all have their own newspaper, their own radio or television station. That is their right. But the question is this: What will we do with Radio Belgrade, what will we do with the television network financed with subscriptions? What will we do, say, with Poiitika, a publishing house which cannot be the property of any party? I think the most natural thing is for those houses to become public enterprises which is another name for state enterprises of SR Serbia. The Assembly, as the supreme body of the state, would assume the role of their founder.

[NIN] Does the Law on Political Association envisage a restriction on financing? For instance, could a party be financed with funds from abroad?

[Mihajlovic] I do not see the purpose of regulating all those particular matters in the law. The law must envisage that the financing of any political party and of all other legal entities is a public matter and subject to oversight. I personally think that a political party which has political goals and ambitions within the country, but is financed from abroad, cannot count on any influence and success. It cannot if everyone knows that it is the long arm of someone abroad.

[NIN] That is true in principle, but we in Yugoslavia and in Serbia have a complicated situation. Certain actions of the separatists in Kosovo, for example, have been successfully financed from abroad. The purchase of land, for example. How will it be proven that this was not domestic money? And then it is difficult to believe that

the membership of the Democratic Alliance will ask Ibrahim Rugova why he accepted aid from abroad.

[Mihajlovic] But who says that that party will be legalized?

[NIN] Fine, to what extent will the situation on the Yugoslav political scene help or hurt Serbian affairs?

[Mihajlovic] It is well-known that Serbia is demanding urgent, integral, and radical amendments of the SFRY Constitution. It has supported changing the Constitution through the amendments which the Federal Executive Council has made public, since it finds that they pursue the direction of our commitments. Their only fault is that they are not integral, that they cover only the economic sphere, while the sphere of the political system and political life are not covered.

[NIN] What will happen if matters in the Federation take a different and unforeseen course? Do you have a back-up plan, if we might call it that?

[Mihajlovic] This is perhaps the most complicated and delicate issue of the constitutional reform. The attitude toward the Federation. The republics who do not desire a federal, but a confederal arrangement of Yugoslavia, have made themselves clear. This is a real problem which has to be faced. My personal opinion is that Serbia cannot sacrifice its democratic legitimacy and sacrifice its reform for any reason—not because of Yugoslavia, not because of Kosovo. Serbia should be a law-governed state and democratic community, and the kind of federation it is in and the kind of Yugoslavia it is in will depend on others in our common home more than on it. But the obligations which Serbia will assume will also depend on what the future federal state is like.

[NIN] Can a confederal Yugoslavia ever be any real option for Serbia?

[Mihajlovic] This is a question that should be thought over not only by Serbs, but also by all the other nationalities and ethnic minorities in Yugoslavia. The fear of a majority dominance of Serbs in some federation is actually an invented fear which the national bureaucracies are peddling in order to survive and preserve their power.

[NIN] Your point of departure in this conversation is probably Serbia's present position in the Federation. Only it has provinces. Serbia is actually a kind of federation within a confederation.

[Mihajlovic] The facts of life are my point of departure. A confederation is a dubious creation, and in our time it is a dream of irresponsible persons who are not serving the interests of the people.

[NIN] Even Kardelj is said to have been irresponsible.

[Mihajlovic] Yes, I have heard that the thesis of Yugoslavia as a historical way station for Slovenes has been attributed to him. I don't know whether he actually said

that, but I hear and see advocates of that opinion on the public scene today. They are making a mistake, they are making a very big mistake. That haste to join Europe with Serbia and Montenegro is ridiculous, and it is ridiculous to try to have them thrown out of Europe. Geography will get in their way if nothing else.

[NIN] However problems are dealt with on the federal scene, Serbia still has problems within its borders.... There are still the troubles in Kosovo.

[Mihajlovic] The fact that Serbia has provinces is not the matter of anyone's will. This is a matter of history. There are a number of very important reasons for the existence of provinces within SR Serbia. The contemporary world and contemporary theories of government and theories of law honor those reasons, and that is why the autonomous entities exist. Accordingly, the provinces will have full autonomy within Serbia, but in no case and never again can they be states, nor can Serbia be divided into three parts, as was the case under the 1974 Constitution. Only Serbia, then, is a state, and the provinces are autonomous entities within which everything was the reason for their gaining that status will come to full expression. Their existence, however, can never again be the reason for carving or dividing up Serbia, or for once again making Serbs and Montenegrins second-class citizens.

[NIN] In drafting the new federal constitution, will Serbia favor the right of other republics to create provinces as well?

[Mihajlovic] I think that the federal constitution should contain the statement of principle that autonomous entities should be formed where there are reasons for their existence. The federal constitution need not impose autonomous provinces with its provisions.

[NIN] How do you see the role of private capital in the new organization of education, the health service, and culture?

[Mihajlovic] Private enterprise has been almost stifled, it has faced obstacles of all kinds. I am glad that the attitude toward it is changing throughout Yugoslavia. I think it is natural for there to be private schools and private hospitals, assuming they all meet high standards.

[NIN] And private newspapers?

[Mihajlovic] Why not, even private newspapers. It is in the citizens' interest to obtain the best and cheapest service, and up to now we have been taking money from them and giving it to an administration operating through SIZ's to solve the problems of self-management. The citizen has been left without protection and has not been in a position to choose, and this has already opened up the possibility for major abuses.

[NIN] Does this mean that we should abolish the contributions for the schools and the health service? Why must someone who is sending his children to private school make a payment to the state?

[Mihajlovic] The state must guarantee the minimum of health care, and it cannot have anything unless it first takes it.

[NIN] Do you expect a debate after statements of this kind?

[Mihajlovic] Of course, you organize it. Because we have not had dialogue and because the public has not existed, we have been like unfortunates chasing ghosts in the dark. The public is indispensable to a civilized life of the citizens, and its emergence is equivalent to the appearance of light. When a light is turned on, there is no longer any ghost or nightmare. You see the kind of danger that threatens now in communities where there is no dialogue: many people would like to persecute those who persecuted them until yesterday, and, as Matija Beckovic says, it is not our objective to transfer the fear from the non-Communists to the Communists. In short, wherever there exists a public, there is no fear except the fear of stupidity. And there is no one that can help in that case anyway.

### Increased Support for Greens Seen

90FB0279A Belgrade EKONOMSKA POLITIKA  
in Serbo-Croatian 5 Feb 90 pp 13-14

[Article by V. Karakasevic: "Ecology—Greens Climb to the Top"—first paragraph is EKONOMSKA POLITIKA introduction]

[Text] Air, water, and food increasingly hazardous to your health—Yugoslavia needlessly polluted—from sympathy towards the "greens" to political support.

Representatives of the ecological movements, initiatives, and parties recently demanded a meeting with FEC [Federal Executive Council] President Ante Markevic in order to draw his attention to the need for an energetic program to protect natural resources, and to fight against pollution and polluters. Naturally, they will also ask for support (social and material) for their activities, and well as a clearer definition of the role and status of their organizations in the sociopolitical system.

The people "in charge," who prior to the greens concerned themselves with protecting the water, air, land, forests, on so on from pollution, have obviously fallen very short of their goals, and the money and resources that have been devoted to these activities have not been justified. In truth, these resources were not that great, but they do include all the massive equipment and installations for cleaning up hazardous water and gases, which in many cases were in operation only for a test and demonstration period, after which they remained out of service.

In any case, the fact is that in Yugoslavia, pollution of some parts of the Adriatic coast and of nearly all the rivers, lakes, land, forests, and air, has reached a level that already constitutes a serious danger to the health of the population and is inflicting permanent damage on

nature and her resources. A particular problem is posed by the fact that a large number of the toxins from the water and air settle in the fields, gardens, orchards, and pastures, thus remaining, like permanent ingredients, in bread, meat, milk, fruits, vegetables, etc. Some of these dangerous substances are permanently retained by the human body, and are passed on to new generations through birth. It is clearly too early to expect human mutants, disfigured by and adapted to a toxic environment, but there is already evidence of some types of degenerated fish, rodents, microorganisms, and so on. The special factor in the Yugoslav situation is that in our country the people intentionally poison the land and food excessively—with pesticides, substances that speed the germination, growth, and ripening of fruits and vegetables, weed-killers, and similar toxins—"so that they grow better and faster and look better." Because of improper use of artificial fertilizer, our fertile land and food have been contaminated with radioactive uranium. This is not to say that there is no agricultural or other producer in the world who would want to increase his production and yield using dangerous substances; rather, the issue centers around the system of standards, regulations, and controls under which it is simply not permissible to sell goods with harmful, unhealthy, and dangerous ingredients. But it is precisely these things that are missing in Yugoslavia. In fact, we have 375 laws and around 2,000 acts on the books concerning ecological and similar protection, but not even 10 percent of the needed standards have been established. To a large extent, no one even knows what is actually going on. As noted at a conference, of the approximately 80,000 chemical substances in use in Yugoslavia, we do not know anything about the toxicity of 38 percent, while we do know about 10 percent (the rest are somewhere in between).

The system of controls too is utterly rudimentary, and is often reduced to ordinary tests—for example, to see whether meat is tainted, how much bacteria there is in dairy production, and so on. And even where there are good regulations and safe standards, the local inspection authorities are more often than not prohibited from intervening—to prevent harm and bother for the mainstays of the local economy. As it is, the majority of the dangerous goods will be sold to others, and hazardous water and gases will flow and blow away to other areas.

In general, some of the greatest polluters in Yugoslavia are thermo-electric power plants, which discharge enormous quantities of sulfur dioxide into the atmosphere. Once there, this gas mixes with water vapor, giving rise to dangerous and harmful "acid rain," which is in fact more or less dilute sulfuric acid. At one point, the Canadians requested compensation from the United States for damage to their forests and everything else caused by acid rain, or in fact by sulfur dioxide from American energy and industrial plants. There, it is thought that the conditions for ecological catastrophe are present if more than 30 kilograms of sulfuric acid fall annually per hectare. If all our thermo-electric plants

operate at full steam for two years, 60 kilograms of acid will fall in Yugoslavia per hectare. But currently, in areas where our biggest thermo-electric power plants are located (which covers half of Yugoslavia), more than 90 kilograms falls per hectare, while in some places, which "feature" two or three plants, that figure is more than 300 kilograms. Ten years ago in Yugoslavia, 588,000 tons of sulfur were discharged into the atmosphere; five years ago it was 725,000 tons, but right now that figure is unknown. Our forests are withering from too much acid—it has been established that one tree in three has been damaged.

More and more cities, which are literally no longer fit to live in, are choked by enormous quantities of toxic gases and other materials from waste emissions from industrial plants. The most drastic example is Zenica, on which 72,000 tons of sulphur dioxide and 24,000 tons of dust fall each year. But in terms of pollution and the threat to the population and to nature, many places are close on its heels—Titova Mitrovica, Bor, Pancevo, Zajecar, Rijeka, Titov Veles, Pljevlja, etc. Even Mostar is among the cities with excessive pollution from industry, the city that not that long ago was the symbol of the unblemished and healthful settlement.

Our rivers, lakes, and seashores should be classified in the second group in terms of cleanliness. However, the result of every survey is that they fall into the third or fourth class, and with increasing frequency outside the class, which means that they have become mere collectors for contaminated water.

#### Goliath Has No Chance

We will write about all these individual aspects of pollution and protection of our natural resources in upcoming issues, while two more facts could be noted here. The first is that in Yugoslavia there is not complete agreement concerning the level and dimensions of pollution, not even among experts; some of them emphasize, for example, that our land is incomparably healthier and cleaner than anywhere else in Europe, and that our big opportunities are precisely in the production of food. But even this difference of opinion shows that the ecological situation in our country has yet to be examined adequately. The second fact is that nearly all industrialized, developed countries had to go through a "dirty" phase of industrialization and development in order to later install technology on a cleaner level. However, these countries made solid gains from that dirty phase and produced a high material and living standard for the population. We, on the other hand, have paid dearly to import this dirty technology and have polluted the environment needlessly, because we have failed to profit from it and have remained at a low standard, and we lack the accumulation to import cleaner technology.

In a situation like this, the movement and message of the greens—various groups, organizations, initiatives, and parties for protection and promotion of the natural and

human environment—have become increasingly clear and vocal throughout the country, especially over the last couple of years. Their self-organization has already achieved the goal of coordinating activities on a pan-Yugoslav level—at the First Yugoslav "Green" Conference in Split, 10 days ago. Besides presenting ambitious and joint programs for activities, the representatives of the ecological societies had to establish a basic fact as well—that their individual and combined forces are too small to be able to contend successfully and on equal footing with the Goliaths of the sociopolitical communities and of the industrial polluters. The first reason is that they are institutionally denied the opportunity to participate in decisionmaking on any level and segment of the sociopolitical and economic system (or even to be present during decisionmaking). Because of this, there is growing support among ecologists for the idea of transforming their movement into a responsible sociopolitical party, which would join the electoral system and in this way gain participation in decisionmaking. A "green" party has already been founded in Slovenia, and similar attempts are under way in Croatia and Serbia. Thus, along with ecological problems, the "greens" are also advocating changes in the electoral system, because the only chance that their representatives have of getting into legislative bodies is with the so-called proportional electoral system (at present, all the republics except Slovenia have the majority system). But whatever the result of the political struggle in this first round, the "greens" are receiving and will continue to receive greater support from society and from the citizenry, who are no longer putting up with being poisoned—not for material gain, and even less so in the absence of these gains.

#### Law on Private Enterprise Criticized

90EB0280D Belgrade *EKONOMSKA POLITIKA*  
in Serbo-Croatian 5 Feb 90 pp 24-25

[Article by Radoje Prica, Belgrade: "Some Reproaches of the Law on Self-Employment"]

[Text] The Law on Self-Employment, published in *SLUZBENI GLASNIK* of Socialist Republic [SR] Serbia, No. 54, 25 November 1989, creates new opportunities for opening private shops and other forms of business (workshops, service centers, bureaus, doctors' offices, and so on), which are denoted collectively in the legal text as the "place of business" (radnja). Not only has the number of activities which can be performed in this way been broadened, but the procedure for obtaining a permit to perform this kind of activity has been speeded up and simplified. Unfortunately, the legislator has departed from the limits on regulation of these activities in two directions: he has prescribed that a place of business is established with the status of juridical person if it employs more than 10 workers, and in several provisions he has encroached upon regulation of private enterprises, which he has done in a restrictive way.

#### The Place of Business as a Juridical Person

Article 6 of the Law on Self-Employment provides that the founder of a place of business establishes a place of business with the status of a juridical person if he employs more than 10 workers. The same article also prescribes that a joint place of business, and this is one which has two or more founders, also must be established with the status of a juridical person. The next article provides that a place of business with the status of a juridical person is liable for obligations with its property, in other words, that the owner or owners of such a place of business are not liable for the obligations of the place of business with other property they may have. As an exception, they will be liable to the extent of all their property if the intermingling of their property and the property of their place of business gives others "the appearance of economic identity with the place of business" (incidentally: if it is a question of "appearance," then it is clear that there is no identity). These are in short all the provisions that concern the place of business as a juridical person. We should also stress that a place of business may employ a maximum of 50 persons, or 100 persons in the case of a joint place of business (Article 12 of the law).

The question arises of why this provision was necessary and why it is foreseen that in these cases the place of business is constituted as a juridical person not as an opportunity open to the founders of the place of business, but as an obligation? A juridical person performing economic activity is an enterprise, and it is regulated in detail by the federal Law on Enterprises. That gives us two systems of enterprises—those basic ones under the Law on Enterprises and these, which are established under the Law on Self-Employment. This duplication is not all that harmless. However, even if we leave aside this fundamental criticism, we still need to point out deficiencies in specific provisions. In legal theory, the juridical person is a category presupposing certain basic elements which must not be neglected in regulating it, such as: defined purpose, organization, and property or resources necessary to achieve the objectives of the juridical person. The Law on Self-Employment regulates defined purpose by establishing in a general way the activity which can be performed by places of business and also to some extent their organization. It does the latter by prescribing that the place of business is managed by the founder and that he is the agent and representative of the place of business, although this certainly is not sufficient and a number of questions will arise in practice concerning the organization of a juridical person like this. Not a word about property. In comparative trade law, the criterion taken for transition from one form of organization to another (for example, from a company with limited liability to a joint stock company) is usually the level of capital invested, and then the number of founders. The number of workers employed is not a deciding criterion at all.

When the liability of the founders is limited to the amount of capital invested, as is the case here with the

place of business qualifying as a juridical person, then it is mandatory to prescribe the minimum amount of capital which that independent entity must possess. This is done in order to protect the public that enters into business relations with that entity. In our case, the legislator is protecting the owner of the place of business or, better put, is creating the basis for abuses on his part. A place of business with 11 workers can conclude deals with a high value and assume large obligations, yet the owner here is not required to invest any minimum amount of capital and is not liable with all his property. Why is it that the employment of 10 workers was taken as the dividing line? Three workers with sophisticated technology can do more business than 50 workers with pick and shovel. What about the case when a place of business is established with fewer than 10 workers, but in the course of business it employs more than 10 workers, or, conversely, what if in the course of business it reduces the number of workers employed? Will the status of the place of business change in such cases?

Finally, the question arises of what kind of difference there is and is there a difference at all between the place of business as the juridical person and a limited liability company? It might be said that the difference is that the company may employ as few as one worker, while the place of business which has the status of a juridical person may not hire fewer than 11.

#### Restriction of the Activity of Private Enterprises

Articles 32 and 33 of the Law on Self-Employment contain a long list of activities for which "working people" may not establish places of business, nor even private enterprises. The list is lengthy and contains 40 items. For example, a private enterprise would not be able to engage in the production of rail vehicles, special-purpose vehicles, airplanes, helicopters, and airplane engines. On the other hand, the private enterprise is not prohibited from manufacturing vehicles which are not special or rail vehicles nor from the production of marine engines and ships. It is not clear why the legislator was so sensitive to transportation equipment running on rails and in the air, while he left the others to private enterprises. It is probable that no private enterprise will be established in the near future in this field, so that this prohibition could go unnoticed, but it is not precluded that some private enterprise might be interested, say, in "establishing forest seed plantings and the production and finished processing of seed," or the processing of tobacco, or the production of agricultural chemicals and the like. All of that and much more are off limits for private enterprises. This restrictive action of the republic legislator raises two kinds of questions—legal and economic.

The basic question is whether this kind of regulation conforms to the SFRY Constitution, which places in

federal jurisdiction regulation "of the basic position and business operation of organizations of associated labor and other entities doing business on the market in the undivided economic area of Yugoslavia" (Amendment 39, Paragraph 1, Subparagraph 9, to the SFRY Constitution, SLUZBENI LIST SFRJ, No. 70, 1988). Exercising that right, the Federation adopted the Law on Enterprises, whose Article 2, Paragraph 2, stated clearly that all enterprises—socially owned, mixed, and private—have "the same position, rights, and liability on the market." It could not be said that they have the same position on the market if some of them can perform certain activities which others may not. Another legal question which might arise is whether or not foreigners have more rights than domestic citizens on the territory of SR Serbia? That is, the possibility that foreign natural and juridical persons establish their own, i.e., private, enterprises is regulated by the Law on Foreign Investments (SLUZBENI LIST SFRJ, No. 77, 1978). Article 21 of this law prescribes that the foreign investor may not establish his own enterprise in fields of certain precisely enumerated activity the range of which is incomparably narrower than the list of activities from which private enterprises are excluded by the republic Law on Self-Employment. Regulation of activity which may be performed on the territory of the SFRY by private enterprises established by foreign persons is reserved for federal legislation by Amendment 15 to the SFRY Constitution.

"Federal law may as an exception, when the public interest so requires, establish in which activities or lines of business or in which fields a foreign person may not establish his own enterprise." So, we have arrived at the absurdity where foreigners have more rights than our own citizens. This is contrary to the general legal principle that nationals of a state may not have less rights than foreigners as to the range of business activity.

The basic economic question which arises and which pertains not only to private enterprises, but also to places of business and other similar forms of activity, is this: Won't capital which someone would like to invest in the prohibited activity leave the territory for SR Serbia for other republics where such bans do not exist? Every state tries to prevent the outflow of capital from its territory, whenever it can, and when it cannot, as in this case because of the undivided Yugoslav market, then it strives not to drive it away with unreasonable measures. On the contrary, it tries to attract capital from other areas. And finally, we must assume that potential foreign investors will hesitate to invest their funds in those activities which in a particular area are closed to enterprises of the same kind belonging to local citizens, knowing that privileges based on inequality are not usually stable. Restrictive legislation is by its nature unattractive to foreign capital.

**Remedies for Agricultural Stagnation Presented**

90EB0280C Belgrade *EKONOMSKA POLITIKA*  
in Serbo-Croatian 5 Feb 90 pp 21-22

[Article by Milosav Ilijin: "Becoming Equal to the Market"]

[Text] People like to say that the Yugoslav economy is like an old nag that has been overloaded, and its drivers are whipping it instead of reducing its burden. This metaphor is certainly not just a tirade that people want to hear in topical speeches being made in the caucuses and assemblies of peasant alliances and political parties—not when applied to the lengthy postwar period in which agriculture has always had a subordinate role in economic-policy relations, and not as a part of the real picture of the agricultural sector's position today.

The immense overindebtedness of the socialized sector of agriculture is confirmation of this. This is one of the lasting consequences of the logic imposed on socialized agricultural organizations that instead of basing their business operation on economic motivation, they fulfill the political and social roles of organizer, monopoly merchant, and almost exclusive supplier of "inexpensive food" to the urban population. There is no credit-and-monetary policy that could be "selective" and "stimulative" enough for agriculture to support such a role, nor any "rediscount" rate high enough to facilitate the continuous inflow of money into the production and financing of annual inventories of various foodstuffs. Especially not in such a way that they would be inexpensive in current consumption yet competitive in export, in such a way that organizations could earn money and finance their activities and thus lower costs in each successive cycle. On the contrary, the chronic subordination of the agricultural sector to industrial ambitions and social illusions of ensuring economic prosperity and the well-being of the people through the administrative regulation of prices has resulted in ever deeper degradation of production on the one hand and ever greater indebtedness of the organization on the other.

Every new attempt with borrowed resources to make a breakthrough in technology and economy has only compounded the risks, and it was certain that adverse new consequences would be the only result. That is why last year the rise of retail prices of foodstuffs was slowed down only briefly under the impact of interventions from commodity reserves or imports on the market, and remained the strongly resistant even to the January wave of price reductions following the December measures. And this is becoming the general trend. The director of a large food combine in Zrenjanin is openly saying that there will be no negotiations with the Federal Executive Council (FEC) on reduction of food prices until the immense burden of revalued credits and interest is removed.

The same demand is being made, although not because of indebtedness, by private farmers, who are the most numerous, in the form of higher support prices for their

products and lower prices for production supplies, combined with the demand for freer self-organization, free of the combine or the so-called cooperative as a monopoly and middleman.

For its part, the FEC has been expressing readiness to remove the heaviest burden from the pack saddle of the socialized sector through conversion of short-term credits into long-term credits (with a grace period of 10 years!), and indeed even by "relinquishing" them to the organizations as their permanent working capital. The intention is the same as assuring agriculture an exclusive status in the federal budget: that is, that funds be furnished in the budget for premiums and for rebates of interest on credits, for the principal production supplies, and for compensation of earlier damage from natural disasters, in order to facilitate a drop of production costs in agriculture and thereby to set in motion the flywheel for greater self-financing of production and for reducing the dependence of the organizations on credit.

**Obtaining Goods and Markets**

The question, however, is what power these measures will have, regardless of the time it will take or the extent to which it is possible to achieve equalization of business operating conditions in the two sectors of agriculture, and even with respect to equal impact of these measures on agriculture as a whole. Going back to the popular comparison we gave at the beginning of this article, it should be borne in mind that the problem of Yugoslav agriculture is not just how heavy the load is, but also the condition the nag itself is in.

First of all, landholdings are fragmented and utterly devoid of organization; the amount of equipment and technical capability of the farms and of entire regions to take advantage of diverse natural and economic potential are very uneven. To the well-known facts about the 25 million tiny parcels on 2.7 million farms, only a small proportion of which have manpower under age 50 (1981 Census), we should add not only the manifestations of disinvestment, but also the overinvestment of a sizable segment of the socialized farms, and the one-sided and limited level of investment of the private farms, especially in the form of tractorization (about 800,000 tractors of various sizes and models have been registered, but their technical value is varied, and often they are obsolete, and so on).

Agricultural policymakers have attempted to solve these problems on many occasions or at least to direct long-term processes through administrative and political means, through land redistribution in its various forms, through changes in the right of inheritance, through higher fees for registering the second and third tractor, by prohibiting and taxing the provision of machine services between farms, by gradually increasing the amount of manpower that can be hired from outside the household, and so on. The same objective was pursued by the 1989 increase in the maximum landholding and also by the most recent and generally accepted proposal

of the FEC to constitutionally abolish that maximum, along with all physical restrictions with respect to the volume of production, including those that reside in property law.

However, the very fact that the number of private farms has been increasing decade after decade, which means that they are increasingly fragmented, indicates the limited power and influence of those ways and means toward enabling most of the private farms to engage in modern production for the market. Researchers into the development of agriculture in recent decades, for example, have been attributing the growth of total output of the private sector of agriculture, which in objective terms is not very great, amounting to 14 percent over the decade up to 1980, exclusively to the category of a total of about 300,000 "energetic" farms (which have more than five hectares, are well-equipped with machinery, and the heirs are on the farm), while the immense majority, representing about 85 percent of all peasant farms, lean toward subsistence farming, with marginal production for the market. That is why the category of commodity producers did not broaden even over the last decade, and the number of "maximalists" fell short even at a limit of 10 hectares, as did their contribution to a sizable growth of commodity production.

The same question, incidentally, also hangs over the trends in the production of the socialized sector of agriculture, which is completely "oriented toward the market." The tendency to abandon the raising of livestock (0.3 conventional head per hectare) not only in barns, but even on meadows and pastures, indeed even where the natural conditions are ideal for this purpose, is only one form of economic degradation of production in the direction of extensive cropping, combined with ever less efficient reliance on chemical fertilizers. What causes these trends; that is, what are the reasons they have not taken a turn in another direction, following the logic of modern production? Why is it that Yugoslav agriculture has been simply unable to pass the limit of exporting 15 percent of its total production, the line that divides the marginal from the real exporter of farm products according to the customary international standard (the FAO)?

Many diverse answers arise from and are compressed in the global facts of the present situation: Conditions do not exist so that the destiny of producers is vitally related to the market, and that is why there is not enough goods of adequate quality (assortment and size of delivery) to fulfill this qualifying criterion of an agricultural exporting country.

#### Achieving Efficiency Through Coercion

The allegory about the overloaded nag should certainly be expanded with the observation that that is the bad fate they have all over the world, but we know that today many nags are easily carrying much larger loads. Of course, this requires more than a stick and spurs; on the

contrary, when it falls in the mud, the normal nag will get moody and refuse to pull. First, then, one has to choose a road that is more or less passable ("realistic"), and replace the stick with the natural reality of the struggle for survival and progress and the endeavor to make each successive step easier....

We are on the path of creating conditions for "higher motivation" of farmers for larger production, especially for the market, because of the reduced possibility of economic survival at all unless that is done. Only on that basis is it possible to conduct a farm policy of protecting and stimulating production and producers in the direction of their higher efficiency, which is quite the opposite of the policy of restricting or prohibiting imports "until domestic barns are empty." In other words, it should become a quite normal event that goods that do not sell and do not cover production costs be denied entrance into the barn, and its owner share this fate forever. That is, confronted by that force he will seek a way out through new, better, and more efficient production that will confirm that he and his product are equal to the market.

What for the present can be said only in descriptive terms about agricultural policy in these categories is also a consequence of the circumstances that have prevailed up to now and which are outside the domain of the logic of economics and the market. This descriptive form is being assumed for the present by the thesis of the reformers concerning equalization of all forms of ownership in the economic system and in economic policy, about the character and content of the various forms of ownership, and the legal powers of their titleholders, for example, ownership rights concerning the land or the rights and conditions related to performing certain activities. This is not just a question of whether or under what conditions (with whose permission and to whose benefit) the collective of a socialist farm will, can, or may sell or lease the land whose cultivation does not pay. It is a much broader question. It also subsumes, for example, the question of whether private partners and the agricultural cooperative, regardless of whether it has 3, 30, or 300,000 members, will have an equal opportunity to purchase or sell goods on any segment of the market. Will all have equal access to money credits and the same terms and guarantees when they organize production or when they export and import supplies and equipment for agriculture? Or, can the army of unemployed agronomists and veterinarians also count on a private role, perhaps only as the very beginning of a future private or mixed form, without which, incidentally, foreign agricultural countries would not have even been able to conceive what they have achieved?

The authors of the measures that have been implemented or already announced in the agricultural field answer these and many similar questions of the same order and complexity affirmatively. They obviously do not intend to stop at lightening the load or removing the packsaddle, but they intend to go right to what is contained in the saddlebags.

## GERMAN DEMOCRATIC REPUBLIC

### Legal Provisions on Investment Surveyed

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[Article by Dr Joachim Lieser, attorney in Cologne: "Regulation of Property and Real Estate Law in the GDR: Thoughts on Possibilities for Western Investments"]

[Text] According to the still unchanged Article 9 of the 1974 GDR constitution, socialism is essentially characterized by, among other things, national property and the centrally planned socialist economy. After the decline of the fascination with socialism in Eastern countries, fueled by the disastrous heritage, one must ask whether these socialist ideas of order can continue to claim validity for the other part of Germany. Discussions about a change of system are fully underway among politicians and scientists, but also among the populace. Although voices have been heard in the state-dominating SED [Socialist Unity Party of Germany] in favor of a turn to social market economy conditions, no definitive, "irreversible" decision has been made by the controlling political powers in the GDR. Since developments in the former "East bloc" have not lost their breakneck speed, and since their effect on East Germany continues unabated, the interest in economic and legal communication—among other things—is becoming of almost hectic significance. In order to be able to immediately and effectively utilize the opportunities so suddenly appearing after the opening of the wall, precise knowledge of GDR law determining investment considerations is needed, particularly in the West. This also applies to property laws in particular and to resultant regulations on real estate property.

The GDR real estate law can only be understood on the premises of the Marxist-Leninist, that is socialist, ideology then solely decisive for legislation. True, in the other part of Germany far-reaching attempts at reform are beginning to be made, as exemplified by the elimination of the SED's leadership role from the constitution, and the resolved change in the status of this party (NEUES DEUTSCHLAND 19 Dec 89 p 3). Nonetheless, the legal system is still based on the previous ideological principles which have determined the law down to every individual norm. The system's foundation in real existing socialism (now probably becoming a part of the past) was not—as with us—the individual, his freedom, and his protection. Rather, man was seen primarily as a societal being. He received his state of freedom through understanding the necessity for, hence the laws of, societal development. Since he alone was not in the position of recognizing by himself the thus defined necessity, it required the particular capacity of insight of the party as the "deliberate and organized" spearhead...of the working class and working people where "the most progressive members of the workers' class, cooperative farmers, and intelligentsia" are united (this

still according to the 1976 SED statute). From this derived the party's sole capacity to conclude the appropriate societal necessities and precepts from the course of objective history and transpose them into political state action. This monopoly of insight (now eliminated through constitutional change) legitimized the claim to leadership by the Marxist-Leninist party (as mentioned before, meanwhile removed from the GDR constitution) which tolerated no other claimants to power. Hence the law was only the leadership's tool for implementation of its policy, proclaimed as the execution of insight. The absolute primacy was not inherent in the law, but in politics. Since man's freedom resulted only from the central insight potential of the leadership clique, it made these persons in a state obligated to socialism not into self-determining systems—as in the West—but into systems determined externally. Accordingly, the individual acted freely only when he obeyed the sovereign instructions defined by the party leadership, on the basis of the insight advantage, as societal interests and then reformulated as legal provisions, i.e., when he absorbed the external central will and had learned to experience it as a demonstration of his own will. Since in socialism the law thus served to control the freedom of people, they could only have as many rights (and corresponding duties) as the central party granted them to implement what had allegedly been recognized as necessary.

This external determination of man, typical for Marxism-Leninism, is an absolute and ultimately "irreversible" trait of socialism. It formed the basis for the nationalization of property, making it the sole responsibility of the state, and the socialist centrally planned economy, which continues to be stipulated in the above-mentioned Article 9 of the 1974 GDR constitution. Accordingly—unlike the free social market economy systems of the West—decisive for activities in society and economy were not the free decisions of the individual, but rather central planning which was legalized in the form of laws and implemented by sovereign means. These basic regulatory conditions to this day continue to characterize, unchanged, the regulations on real estate property.

### Socialist Regulation of Property Law

The GDR real estate law is a partial area of the entire property law regulation over there. It is of great complexity, as a result of the socialist external determination system. The basic regulations are contained in Articles 9 through 16 of the 1974 GDR constitution. Overall one distinguishes between three types of property, graduated in ranking according to the degree of nationalization, whereby the highest form in turn is again subdivided into three subgroups. Their schematics appear as follows:

1. Socialist property (Article 10 of the GDR constitution)
  - a) National [people's] property belonging to all of society (Article 12, GDR constitution)

- b) Cooperative joint property of working collectives (Article 13, GDR constitution)
- c) Property of citizens' societal organizations
- 2. Personal property (Article 11, GDR constitution)
- 3. Property of private sector economy (Article 14, GDR constitution).

The highest form, because of the greatest degree of nationalization, is national [people's] property. The legal entity, i.e., owner, is the state. It exercises its property rights through its enterprises. Its extent depends on the tasks of the respective economic unit in the plan implementation process. National property is objectively unlimited, in which the nationalized sector comprises almost the entire economy. Article 12 of the GDR constitution lists the objects which must compellingly be national property and must not be converted into private property (it must be mentioned that the ban of conversion into private property is to be set aside; see NEUES DEUTSCHLAND, 13/14 Jan 1990). This includes all mineral resources, mines and power plants, dams and large bodies of water, the natural resources of the continental shelf, as well as industrial enterprises, banks and insurance companies, state farms (VEG's) [state enterprises], traffic routes, the railroad, shipping and aviation, and the postal and telecommunications systems. According to Article 18, paragraph 2, of the Civil Code of Law (ZGB), national property is the "basis of socialist production conditions" and is "to be utilized and augmented according to societal needs and the principles of the socialist planned economy."

Since rights of ownership and the planning authority are in the hands of the central state power, national [people's] property represents the type of property most optimally suited to a centrally planned economy. In order to ensure a smooth plan fulfillment process, it is ultimately also privileged in many regards: It is inviolable and enjoys the state's special protection. Its protection is the duty of all citizens and enterprises. It may be not be pawned, distrained, or encumbered (Article 20, ZGB). Furthermore, it is also specially protected under the penal code (Articles 157-164 GDR Criminal Code of Law).

The "cooperative joint property of working collectives" shows a lesser degree of nationalization. It is "socialist property," but only of a "lower order," inasmuch as socialization does not extend to the entire people (the state), but only to certain groups of workers. And they are also not legal entities. Rather, the cooperatives as owners are the legal entities. The extent of their ownership rights depends on their respective purpose and the assigned plan fulfillment tasks (Article 19, paragraph 2 ZGB). Cooperative property exists predominantly in the agricultural area (LPGs = Agricultural Producer Cooperatives, GPG = Horticultural Producer Cooperatives, PGB = Producer Cooperative of Freshwater Fisheries, PwZ = Producer Cooperatives of working Breeders of Exotic Fish, PwP = Production Cooperatives of working

Breeders of Fur-bearing Animals), in retail trade (KG = Consumer Cooperatives), the crafts (PGH = Production Cooperatives of Crafts), and in the construction business (AWG = Workers Housing Construction Cooperatives). The obligatory attorneys' boards are also part of the cooperative sector.

Cooperative property is objectively limited to property items needed to fulfill the purposes allocated from above. Furthermore, there results a further objective limitation from the aforementioned Article 12 of the GDR constitution—at least without repeal of paragraph 1, sentence 2—according to which the objects listed therein must be national property. Article 13 of the GDR constitution lists as objects of cooperative property the equipment, machines, installations and buildings of the cooperatives, also the LPG livestock and the results from cooperative use of the soil and means of production. Property "within the framework of state management and planning" serves "the fulfillment of their economic tasks (as well as) the realization of their obligations to socialist society..." (Article 18, paragraph 3 ZGB). Thus it fits into the socialist central plan system inasmuch as it must serve plan fulfillment purposes. For this reason it is also—albeit to a small extent—inviolable and under special protection. In contrast to national property, pawning, distrain and encumbrances are possible with regard to certain property assets (Article 25, paragraph 3 LPGG [LPGG = agricultural producer cooperative law]).

The third and weakest form of socialist property—because it does not directly serve economic purposes—is the property of societal organizations. It is earmarked for the fulfillment of its political, social, scientific, cultural and other tasks. The entitled person, i.e., the owner, is the respective societal organization. This includes the SED and the other—former—(block) parties, mass organizations such as the Free German Labor Union Federation (FDGB), the National Front etc., and all social and cultural institutions. The extent of property rights depends on the respective goals set by the state (Article 18, paragraph 4, Article 19, paragraph 2 ZGB). This property form also enjoys special state protection, although less so than national property.

"Citizens" are the entitled persons of personal property, i.e., owners (Article 11, paragraph 3 of the GDR constitution). But this does not mean "citizen of the state," but man in general. Hence everyone can be a legal entity, even a foreigner (Mampel, *Die Verfassung der DDR—Kommentar* [The GDR Constitution—Commentary], 2nd edition, Frankfurt/M. 1982, review of Article 11). This form of property is also objectively limited. Excluded are all objects which, according to Article 12 of the GDR constitution, must be mandatory national property. Article 23, paragraph 1 ZGB lists as personal property income from work and savings, household and apartment furnishings, objects of personal use, as well as objects acquired for occupational and continued training and for recreational purposes, and also parcels of land and buildings to satisfy the housing and recreational needs of the citizen and his family. This also includes the

rights corresponding by nature to personal property, particularly those of copyright holders, innovators and inventors. Within the legal framework and safeguarding societal interests, the owner has disposition of his personal property and can transfer the property and its use to someone else.

The lowest form of property (because of its "capitalist" characteristics) is "private sector property" (Article 14 of the GDR constitution). No special regulation has been provided for it. If not otherwise determined, the regulations for personal property apply (Article 23, paragraph 2 ZGB).

Private sector property serves production purposes for "crafts and trade enterprises based primarily on personal work." So this deals with property of production means which in Marxism-Leninism is also called "property of small producers of goods." The crafts and trade enterprises are the owners of the production means used by them. The private sector property also is subject to many limitations. As a rule, the enterprises can only employ 10 people (see Article 3, Law on promotion of crafts of 9 August 1950 = GBl. p 827) [GBl. = Legal Gazette]. Only those objects can be property which are necessary within the framework of plan-fulfilling activities. Here, also, everything is excluded which—at least up to now—must be national property according to Article 12 of the GDR constitution. Within these limitations, the rights of ownership comprise all those competences to which the owner of personal property is entitled. However, execution of one's right can be carried out only "in observance of the responsibility to socialist society" and must not lead to private sector associations with economic power (Article 14 of the GDR constitution).

This "official" regulation of property, despite its postulation in the GDR constitution, is in no way complete, however. Because in addition to the aforementioned types of property standardized not only in the constitution but also by law, there is another property type which is considered a presocialist, i.e., capitalist, relic: private property. It is also called "private capitalist" property, the source of which is supposed to be "third-party" work, that is the exploitation of working people. If not regulated by special decrees, the regulations of the ZGB are applied accordingly (Article 3 EGZGB) [= Property law, Civil Code].

Since 1972, private ownership in industrial enterprises by GDR citizens no longer exists. A large part of the ground and real estate used by agricultural production cooperatives is still privately owned (Article 19, paragraph 1 LPGG, Arlt, Agrarrecht fuer Staats- und Wirtschaftsfunktionaere [Agricultural Law for State and Economic Functionaries], East Berlin 1979, p 153ff.). In this case, the legal entities, i.e., owners, continue to be the formerly independent farmers who had to contribute their real property to cooperative use with their (enforced) joining of the LPG's. However, this property conveys practically no rights to its (formal) owner. It is superseded by the cooperative right of usufruct which

excludes the owner from self-use of his real estate. The right of usufruct continues even in the case of sale or inheritance (compare Article 18, paragraphs 4, 45 LPGG). But these possibilities of passing on real estate property are of no practical value, since legally eligible potential buyers can have no interest in a purchase. Because such an investment is not profitable for the state and the LPG. Even without expenditures, they can use the real estate property for purposes of plan fulfillment. In turn, a purchase by other LPG members is of no advantage to them because of the cooperative right of usufruct.

Numerous apartment houses are also still privately owned. This holds true for old buildings exclusively. The number of privately owned houses has decreased more and more in recent years. The reason for that is due in part to natural wear and tear which was not balanced by new construction in the form of private property. Furthermore, there were conversions to (state) people's property when the owners could no longer finance repairs because of deliberately enforced low rents within the framework of state housing control (see 2nd implementation order to the construction law of 29 Sept 1972 = GBl. II 1972 No 59, p 641; Muehlmann, Miete—Grundriss Zivilrecht [Rent—Outline of Civil Law], East Berlin 1977, p 15f.).

Lastly, the property of FRG citizens and West Berliners—incidentally, in addition to the real estate property of churches and religious communities (mostly used agriculturally)—in the GDR is treated as private property. This also applies to properties of foreigners; to the extent that it existed on 8 May 1945, it was placed "under the administration and protection" of the GDR. It is subject to special regulations. In case of [legal] gaps, the ZGB is applied. But the right to use it as a means of production does not exist.

#### **The Socialist Regulation of Property as a Basis for Western Investments**

Overall the GDR regulation of property is extremely complicated. But that has not resulted in flexibility. Rather the opposite holds true: There is a very obvious rigidity which leaves no room for dynamic individual activities in society and industry which is characteristic of the market economy-oriented West. The reason is that the regulation of property in the other part of Germany was tailored exclusively to fit the centrally planned economy typical of socialism. To this end it was important that all property be at the constant disposal of the central political leadership. Because only in this way can central planning be implemented "from the top down," so to speak, without any special losses due to friction (for instance, through drawn-out lawsuits concerning opposing individual rights).

This absolute orientation to societal and economic decisions by the political leadership can be noted in all the types of ownership mentioned. The state is the owner of national property. It alone decides on how it is used, for

instance, the founding or closing of state-owned enterprises (VEB's). The same holds true for cooperative property and the property of societal organizations. For one thing, for these types of property the ownership rights are established in such a way that they can be used only according to the goal-settings enjoined by the central leadership. For another, foundings and closings of cooperatives or societal organizations are also solely within the power of the political and state leadership (which was disregarded by the parties founded after the turnaround in the GDR, with the tail wind of the normative power of reality behind them). The private sector property of small crafts and trade enterprises also does not allow much leeway for individual (entrepreneurial) activities. Because it is limited to economic units employing only 10 persons and shaped by the proprietor's own work. Furthermore, it is included in local economic planning and permits only certain economic activities, while the state has reserved for itself the final decision through the requirement for individual permits (see Article 50 VO [enforcement regulations] on promotion of crafts in service and repair performances and the regulation of private business activity of 12 July 1972 = GBI. II, p 541). It remains to be seen whether insertion of Article 14a in the GDR constitution—which is to permit the founding of enterprises with foreign participation by combines, enterprises, institutions, cooperatives as well as by craftsmen, businessmen and other citizens—will actually be carried out, and what further regulations subsequently will result therefrom. The situation is no different with regard to the still existing remnants of private property. Not only was it excluded from the constitution's protection of property and—to the extent that it still exists—legally regulated as a system to be eliminated, but actually the owner was deprived of any possibility to have disposal over his private property in his own interest. And lastly, personal property also is not a tool for free—especially economic—initiatives. Its extent is limited to objects of daily needs. It is basically consumer property which under its legal regulation is not suitable for entrepreneurial activities and hence not permitted under law for that purpose.

For the purposes of a centrally planned economy typical of socialism, a uniform people's property, or more precisely state property, certainly would have been better suited. But the diversification of property regulation in the GDR, with a view to the perfected communist society, represented a concession to historical traditions (conceived as temporary). Gradual socialization was to cushion the expected negative consequences for the populace of the transition from individual private property to fully socialized state property. Overall one can observe, however, that such socializations (even graduated ones) also lead more or less to the nationalization of the economy (possibly also graduated). Thereby the economy loses accessibility for international investors. Hence, ultimately there can be an influx of capital from the FRG or foreign countries into the GDR only if their

socialist regulation of property is superseded by reintroduction of private property.

#### GDR Regulation of Real Estate Law

Potential Western investors must ask themselves what investment possibilities could exist in the GDR under the socialist property regulation (still) in force. In addition to participation in enterprises, naturally there is interest in involvement in the real estate sector. Since the law is here just as complicated as the regulation of property overall (as described above), only a rough outline can be presented.

First of all: Ownership of real estate is possible under all forms of property. Legal regulations—some general, some category-specific and special—are in force. Despite all functional differences, they are applied to all forms of real estate property according to the provisions of ZGB, the Real Property Transactions Law of 15 Dec 1977 (GVVO = GBI. I 1978, p 73), the Implementing Regulation of 19 Jan 1978 (GBI. I, p 77), the Real Property Documentation Regulation of 6 Nov 1975 (GDO = GBI. I, p 697), the Land Register Procedural Rules of 30 Dec 1975 (GBI. 1976 I, p 42), the Building Land Law of 15 June 1984 (GBI. I, p 201), and the Compensation Law of 15 June 1984 (GBI. I, p 209). By contrast, the "Procedural Rules [VO] on administrators' rights and obligations of property belonging to owners who have left the GDR illegally toward creditors in the GDR" of 11 Dec 1968 (GBI. II, p 1) apply only to personal and private property. Since not all regulations of the other German state can be listed here, further information can be gained from the two volumes of *Bestimmungen der DDR zu "Eigentumsfragen und Enteignungen"* [GDR Rules on "Questions of Property and Expropriations"] by the Bundesanstalt fuer Gesamtdeutsche Aufgaben [Federal Institution for All-German Tasks] in Bonn (1971 and 1984).

Anyone proceeding from FRG real property law notices in the GDR one peculiarity above all. While here in the FRG buildings, installations, and cultivation solidly connected to the ground are essential components of a piece of land and share the same legal fate (Article 94, BGB) [BGB = German Civil Code], there exists a significant divergence in the GDR. True, ownership of land in principle also includes objects inseparably attached to the ground. But it can be determined through legal provisions that ownership of buildings and installations independent of the land can be justified, in which case—for lack of other agreements—the rules on pieces of land must be applied correspondingly. If no other agreements have been made, the same applies to weekend cottages and buildings serving recreation, leisure time activities or similar personal needs and are built in consequence of a contractual right of usufruct. In this case, the regulations for immovable objects are not applied, but rather those for movable objects. At termination of the right of usufruct, the building property can be transferred to the next person entitled to use the

respective piece of land, through a written contract which requires state approval (Articles 295f. ZGB)

Acquisition of real property can take place through purchase, gift and other contract, and also through succession by inheritance, the decision of a court of law, a state notary's office or other state organ as well as by virtue of a law (Article 25 ZGB). Acquisition of socialist real property is out of the question if it is the basis of the enterprises' economic activity (Article 20, paragraph 3 ZGB). If there are no other stipulations, ownership of land and buildings is transferred to the acquirer upon entry in the land register (Article 26, paragraph 2, Article 297, paragraph 2 ZGB). Under Article 285 ZGB, and Articles 2 and 7 GVVO, the transfers must be approved by the kreis or bezirk councils. The obligation to obtain a permit is meant to serve ensuring state order in the sector of real property transactions and protecting the rights of citizens.

Acquisition through legal transactions takes place by unconditional mutual declarations without a time limit on the real property transfer. With entry in the land register, the obligations stemming from registered rights and usufruct contracts are also transferred as long as no other agreements have been made. For lack of other arrangements, the property transfer also comprises appurtenances (Article 297 ZGB). For the acquisition of pieces of land or partial pieces of land for the construction or expansion of traffic routes, waterways, etc., i.e., for the public interest, a simplified procedure can be applied under special regulations (Article 298 ZGB). Real property is possible as sole or common property, the latter in the form of co-ownership or joint ownership (Articles 34-42 ZGB). If one spouse acquires a piece of land through means of personal property, both spouses automatically become joint owners. Exceptions are made only if either a respective declaration by both sides for the acquisition of sole property exists under family law, or if the state of marital community property has been set aside legally (Article 299 ZGB).

In all legal acquisition procedures, as stated in Article 11, paragraph GVVO, the state, "in implementation of state or societal interests, has a preferential right of acquisition" in favor of socialist property, which is to be claimed within eight weeks of receipt of the application for approval by the kreis council (Articles 11-15 GVVO).

The agreed-upon purchase price must conform to the legal price provisions. If it is not approved by the state, the purchase contract does not materialize. A lower sum considered permissible by the authority leads to the validity of the contract only if the seller declares his agreement to the purchaser. Once the lower purchase price has been recorded and authenticated, it is considered agreed-upon (Article 305 ZGB). The costs of the property transfer are borne by the purchaser. A different arrangement is possible (Article 304 ZGB).

The seller is obliged to provide comprehensive information with regard to size, state, condition, and encumbrances of the piece of land (Article 300 ZGB). If money is involved in the acquisition procedure, the seller also "guarantees" that "size and state of the piece of land conform to the contract or to the possibilities of use to be expected under the circumstances." The guarantee also comprises warranted qualities. In case they are lacking or have defects which impair the agreed-upon or, under the circumstances, expected possibilities, the acquirer has a claim either to repayment of the price for retransfer of the piece of land, or to a lower price. The time of guarantee is one year. It can be contractually extended. The time limit starts at the delivery of the real property or, if it occurred prior, at the time of conclusion of the contract (Articles 301-303 ZGB).

The regulations of GDO apply to legal acquisition of unauthorized property. Since in the GDR, also, ownership transfer of land and buildings is tied to entry in the Land Register, for reasons of legal security its content is considered correct in favor of the acquirer (Articles 7-9 GDO). This rule is not applied if an objection to the correctness has been entered, or if the acquirer had positive knowledge of the incorrectness and thus has no right to appeal. Acquisition in good faith of socialist property is excluded (Article 8, paragraph 1 GDO).

As examples of property acquisition through state decisions must be listed here:

- Confiscation justified in criminal law (Articles 56, 52 StGB [Criminal Code] in connection with 281 and 282 ZPO [Code of Civil Procedure])
- [Property] division due to divorce (Article 39 ZGB)
- Division of the estate (Articles 426 and 427 ZGB; 34-36 NotG [emergency law])
- Special expropriation facts, the basic prerequisites of which result from Article 16 of the GDR constitution:
  - if the purpose of serving the public interest cannot be attained in any other way;
  - specific legal provisions must exist;
  - appropriate compensation must be paid.

Facts for expropriation can be found particularly in the following regulations:

- Law on national defense of the GDR of 13 Oct 1989 (GBI. I, p 372)
- Law on the use of nuclear energy in the GDR of 28 March 1962 (GBI. I, p 47)
- Law on the protection, use and maintenance of bodies of water and protection against the dangers of flooding of 17 April 1963 (GBI. I, p 77)
- GDR mining law of 12 May 1969 (GBI. I, p 29)

—Law governing building land of 15 June 1984 (GBI. I, p 201)

—Land improvement law of 14 May 1970 (GBI. I, p 67).

Real estate property entitles one to ownership, use, and dispositions (see Articles 19, 24 ZGB). The rights to socialist property are exercised by the VEB's, combines, managing and other state organs and institutions, as well as cooperatives and societal organizations (Articles 17-19 ZGB). Competences can also be transferred to citizens, above all for paid or unpaid, collective or individual use (Article 21 ZGB). Furthermore, real estate property also grants certain claims, for instance, to undisturbed ownership and unimpaired use, to surrender of, refrain from, and elimination of disturbances (see Articles 33, 327ff. ZGB). From a Western viewpoint, the possibilities of use, encumbrance and disposal are of particular interest.

The use of parcels of land and buildings is regulated in detail in the Civil Code (Articles 284-295, 312-315). Use by the individual is permitted only for housing and recreation, hence not for business purposes. Primarily promoted are joint or cooperative use. But in every case, real estate property is earmarked for a purpose and must be used in such a way that it conforms to societal requirements. Land use contrary to this requirement is prohibited (Article 284 ZGB) which would be the case, for instance, if an individual would want to build more than one single-family home and/or weekend cottage (Westen, *Zivilrecht im Systemvergleich* [System Comparison of Civil Law], Berlin 1984, p 342). Hence surrender for use requires state approval (Article 285 ZGB). The substance of the respective right of usufruct results from the ZGB, but also from many other legal provisions and effectively concluded agreements (Article 286, paragraph 2 ZGB).

The Civil Code recognizes four forms in all of the granting of a right of usufruct (Article 286, paragraph 1 ZGB):

—Leasing of state-owned land for the construction and personal use of single-family homes (Articles 287-290 ZGB);

—Allocation of cooperatively used land, also for the construction and personal use of single-family homes (Articles 291-294 ZGB);

—Agreement on the use of land for recreational purposes (Articles 312-315 ZGB);

—As owner of a parcel of land or weekend cottage (Article 295f. ZGB).

The leasing and allocating of rights of usufruct to socialist real estate property are regulated along parallel lines. In the case of leasing, the entitled person is granted a charter by the state organ in charge which states the time of accrual (Article 287, paragraph 2 ZGB). Such a charter is not provided for allocated cooperative real estate property. The parcel of land can only be used as designated. The right of usufruct is regular, not limited

in time, and against payment. A time limit and gratuitousness are possible in exceptional cases. The buildings and installations erected on socialist real estate property, as well as the planting done there, become personal property of the holder of the right of usufruct and can be sold independently and bequeathed. With state approval of the purchase contract, the right of usufruct passes to the purchaser. He is to receive a document made out in his name in certification (Articles 288f., 292f. ZGB). In case of nondesignated use, the right of usufruct is to be withdrawn by the appropriate state authority. On state-owned real estate property, the buildings, installations, and cultivation become people's property. In such a case, compensation is paid only if the buildings had been constructed under a state permit (Article 290 ZGB). In case of cooperative land, the former holder of the right of usufruct is obligated to sell his building.

Land not used for agriculture or forestry—mostly socialist property—can be handed over to citizens for small-garden use, recreation and leisure time activities (Articles 312-315 ZGB). The agreement on usufruct—with or without a time limitation—which as a rule requires state approval, must be concluded in writing. A time limit is obligatory if there exist justified societal reasons. They must be stated in the contract (Article 312 ZGB). Here, also, only designated use is permitted. Cultivation is allowed, and the yields belong to the holder of the right of usufruct. With proper agreement, he is also permitted to erect on the lot a weekend cottage or other structures within the framework of the stated purposes. The holder of the right of usufruct must pay remuneration for that. Transfer of the right of usufruct to other citizens is forbidden (Article 313 ZGB). The owner and user relationship can be ended by agreement or written cancellation by both parties.

For this, the lessor needs justified societal reasons. They exist in particular if the lessee repeatedly and seriously violates his obligations, considerably disturbs other entitled persons, or behaves in some way disturbing the community. In case of construction of a weekend cottage or a garage, the owner-user relationship can be ended against the will of the entitled person only through court decision. Under certain circumstances, the lessor—in case of termination because of urgent personal requirements—is obligated to buy the structures and cultivation (Article 314 ZGB). In the case of cultivated small gardens, the entitled person may be obligated upon termination to leave buildings and structures erected by him, as well as plantings, on the parcel of land if further small-garden use makes it necessary. The subsequent user must pay remuneration for them (Article 315 ZGB).

With regard to an owner's right of usufruct within the framework of permissible purposes of use [the law] holds that ownership of the land and the buildings can be separated. In this case, also, there exists a right of appropriation concerning yields from cultivation (Article 295 ZGB).

As one of the few traditional rights in rem, the Civil Code still contains the right of preemption (Articles 306-309 ZGB). The agreement requires state approval (Article 2 GVVO) and documentation (Article 67 ZGB). The right of preemption comes into existence with entry in the Land Register (Article 306, paragraph 1 ZGB). It is not transferable or bequeathable. The state right of preemption existing for all parcels of land is not superseded hereby, rather, it has precedence (Article 306 ZGB). The contractual right of preemption lapses if the purchaser is a holder of socialist property (Article 308 ZGB), or if state approval is denied. The same applies in case the entitled person waives his right of preemption or if, within two months after written notification of sale by owner, he does not declare whether he wishes to make use of his right of pre-emption. If, however, he states that he will exercise his right of pre-emption, the owner must conclude a sales contract with him alone.

As the only remaining law of liens on real property, the Civil Code recognizes only the mortgage (Articles 452-458 ZGB). It is formulated strictly incidental, i.e., linked "inseparably" to the secured claim. Legal continuity, transfer and discharge depend on the secured claim (Article 454 ZGB). Furthermore, a mortgage on personal property requires that the claim to be secured is in economic conjunction with the parcel of land and is directed against the owner of this piece of land (Article 452, paragraph 3 ZGB). This requirement is not demanded for mortgages in favor of holders of socialist property. As in legal transactions concerning real estate property, a state permit must be granted (Article 453, paragraph 1 ZGB, in connection with Articles 2ff. GVVO) and the agreement must be documented. Mortgages are exempt from state approval if they originate in favor of socialist banking institutions—and there are no others. The mortgage comes into being through entry in the Land Register. The date determines its ranking.

There are special regulations for construction mortgages. They serve to secure loans granted by banking institutions for construction measures on a parcel of land (Article 456, paragraph 1 ZGB). A construction mortgage can be either contractually arranged or ordered by the state authority and takes precedence over all other mortgages (Article 456, paragraph 3 ZGB). This leads to the situation where lower-ranked mortgages cannot be discharged and are considered deferred, including interest. Termination is not possible during this period (Article 458 ZGB). For mortgages established before the Civil Code came into force, the regulations of the BGB [German Civil Code] continue to be valid (Article 6, paragraph 2 EGZGB; Janke, *Loeschung und Abtretung von Grundpfandrechten vor Inkrafttreten des ZGB* begruendeten Grundpfandrechten [Cancellation and Assignment of Mortgages Established before the Civil Code Came into Force], NJ 1988, p 9). Assertion of the claim, however, is regulated by the provisions of the ZGB.

In connection with mortgages, one must point out in conclusion that, in the GDR, there also exists the legal

institution of guarantee (Article 450f. ZGB). Accordingly, a monetary claim can be secured by a third party obligating himself in writing as guarantor vis-a-vis the creditor to satisfy his claim if the debtor does not pay after the debt falls due and foreclosure action was unsuccessful. The guarantee secures the respective amount including interest and the costs for asserting the claim. If the guarantor has agreed in writing, the creditor can choose to demand payment from either the debtor or the guarantor. In any case, the guarantor has the same defenses which the debtor possesses. In case of fulfillment of the claim by the guarantor, the claim is transferred to him.

No encumbrance on a parcel of land in a strictly legal sense, but in fact, is the GDR law on tenancy. For this reason it is of interest to Western observers.

According to Article 37, paragraph 1 of the GDR constitution, every citizen has a right to housing for himself and his family in accordance with the economic possibilities and local conditions. From this is derived a comprehensive housing control, which has found a programmatic regulation in the Civil Code (Articles 94-97), and implementing regulations in the Implementing Regulation on Housing Control—WLVO—of 16 Oct 1985 (GBI. I, p 301) as well as in the first concomitant enforcement regulation of 16 Oct 1985 (GBI. I, p 308).

Precondition for establishing a tenancy is the conclusion of a housing tenancy agreement. That, however, materializes only on the basis of a housing allocation (Article 99 ZGB, in connection with Article 18, paragraph 2 WLVO). The contract of tenancy obligates the lessor to make available and maintain the housing accommodation. The lessee must see to regular painting. Maintenance and repair is made difficult by the fact that the rents to be realized by the owner as the lessor are subject to the price freeze order of 30 Nov 1936 (RGBl. [= Reichs Legal Gazette] I, p 955). The same applies to sales prices which are tied to the unit value of 1936. In addition, the state can order construction measures for the creation as well as maintenance of housing (Implementing Regulation on Financing of Construction Measures for the Creation and Maintenance of Private Housing Accommodations of 28 April 1960 = GBI. I, p 351). Loans are granted for that purpose, which in rem must be secured by a first-ranking mortgage. In case of the owner's refusal, the construction measures can also be ordered—at his expense—by the appropriate local council or by the tenants' representation (Article 118 ZGB; Kringe, *Mietrecht der DDR* [GDR Law of Tenancy], ROW 1977, p 57). A house owner cannot prevent a complete architectural change of his house if it is considered necessary by the state authority (Kringe, op. cit., p 58). This state power of intervention was also extended to the maintenance of private business space (2. FinVO of 24 June 1967 = GBI. II, p 419).

The tenancy agreement can be terminated on the part of the tenant with two weeks' written notice. If the tenant receives a written notice of termination, its effectiveness

requires written confirmation by him (Article 120 ZGB). Actions by the tenant or other members of his household constituting a breach of duty, or societally justified need for own use are considered justified reasons for terminating the tenancy agreement on the part of the landlord, but only within narrow limits (Article 122 ZGB). Termination is only possible by a court decision (Article 120, paragraph 1 ZGB) which states the final date (Article 123, paragraph 1 ZGB). According to Article 123, paragraph 3 ZGB, forcible eviction under the court decision is possible only if other housing had already been allocated to the tenant.

The rules of the housing rental law, in addition to special regulations, also apply to rental agreements on:

- company-owned housing (Article 130 ZGB),
- rooms used for business (Article 131 ZGB),
- weekend cottages, rooms for recreational purposes and garages (Article 132 ZGB).

#### Investments in Real Estate Property for Foreigners

With regard to ownership of, and other rights to, parcels of land and buildings by foreigners, GDR law applies (Article 9 legal application law of 5 Dec 1975 = GBl. I, p 748). It also applies to respective agreements concluded as well as securities provided (Article 12, paragraph 3, Article 13 legal application law). For lack of special regulations, real estate property thus is subject to the rules of the Civil Code (Article 3 EGZBG). In this case, appropriate application of the regulations concerning personal property in particular is observed (Maskow/Wagner, *Kommentar zum Gesetz ueber die internationaen Wirtschaftsvertrage* [Commentary on the Law on International Economic Agreements], Heidelberg 1984). For this reason foreigners must take into account that the acquisition and use of real estate property must not be contrary to societal interests. This certainly includes (at least up to now) that real property could be acquired by foreigners only once, and would be limited to housing and recreational purposes.

A law on the granting of user rights is being planned which is to regulate the acquisition or leasing of land or of enterprises, as well as of formerly private and semi-state owned enterprises (FRANKFURTER ALLGE-MEINE 31 Jan 90 p 13). But in conclusion one must note with regard to the property regulations and real estate law in the GDR that at present there exist few legal possibilities for foreign investors to get involved in the real estate sector. A certain way might be opened up by letting stand, in particular, the real estate property law with the proviso of taking into consideration societal interests. While up to now this formula, among other things, has been used to seal off the national economy from foreign economic activity in the other part of Germany, it could now serve to justify foreign investments in the socialist German state. For especially now it is becoming ever more evident what an enormous amount of capital is needed in order to rehabilitate

existing buildings and to construct sufficient housing. To what extent it is possible to operate with "societal interests" in this regard can only be decided case by case, and it will certainly require great argumentative dexterity with the still functioning SED bureaucracy. However, it may also happen that the entire GDR legal system will collapse shortly. For law and power belong together. Power without law is terrible, law without power is ridiculous. If the power vacuum in the socialist German state should continue to grow, the free dynamism of the market-economy West will find ways to remove the legal system which is in contradiction to freedom—also with regard to real property. That, however, requires patient activities in that direction.

#### HUNGARY

##### Carnegie Franchise To Be Established in Hungary

90CH0007B Budapest NEPSZABADSAG in Hungarian  
20 Feb 90 p 5

[Article by "F.B.": "When Your Throat Turns Dry"]

[Text] Let us imagine a circular-shaped red rug with the office building of an enterprise named Mercury in the middle of it. Sitting on the building's chimney is beautiful Venus, whose golden hair is marred with pieces of mud with a baton sticking out from one of them. On the knob of this baton a tiny ox is balancing the rocket Saturn. In a pail hanging from the tip of the rocket, hot uranium is bubbling in which the god Neptune is bathing, holding his trident in one hand, and his dog Pluto's leash in the other. Well, according to the associates of Dale Carnegie, anyone who is able at least once to visualize the above sequence of images, has already learned the order of the planets of our solar system—back and forth, of course.

Mr. Carnegie, the enterprise builder, has recognized that most people have a problem with standing before the public, in other words, that the average citizen is usually unable to speak before a large crowd, and that when he does open his mouth, he speaks poorly and haltingly, leaving out the essence of what he wants to say and getting lost in the details. So in 1912, Dale Carnegie opened a strange school where he began to teach people how to communicate, never collecting the tuition until the end of the lesson. Many years have passed since then, his method has earned universal acclaim, the books outlining his method have been translated into several languages, and to date some 4 million people have completed his courses.

At yesterday's press briefing we also learned that that company, which had also established itself in the Scandinavian countries in 1978, will launch its first program in Eastern Europe, the subject of which will be how to speak effectively before a large plenum. In the coming years, additional courses can be expected to follow, for example, on how to extricate ourselves from a difficult situation at a press conference. The firm operates under

the original Carnegie license, and according to the already time-tested practice, within three to five years it will become the property of the host country, in this case, of Hungary.

### **U.S.-Hungarian Computer Servicing Joint Venture Formed**

*90CH0005D Budapest NEPSZABADSAG in Hungarian 14 Feb 90 p 2*

[Article by "K.M.": "American-Hungarian Computer Servicing"—first paragraph is NEPSZABADSAG introduction]

[Text] The Digital Equipment Corporation (DEC) announced yesterday [13 February] the formation of a Hungarian-American joint venture. Its partners in the joint venture are the Central Physics Research Institute and the Computer Applications Enterprise.

The new joint venture, to be known as Digital Equipment (Hungary) Limited Liability Company, is being launched as of 2 April. It will sell and service systems that can be built with computers of the microVAX family. The company will be complying with COCOM rules and with American export laws and regulations. DEC will hold a 51-percent stake in the company's \$2 million capital, and the rest will be divided equally between the two Hungarian institutions. Under the agreement, DEC has the option of acquiring a 100-percent stake in the joint venture in the future—i.e., of converting the joint venture into a wholly owned subsidiary.

Incidentally, formation of the joint venture also marks the return of DEC (it has annual sales of \$12.7 billion) after a decade-long absence. In the 1970's, sales of the justifiably popular American computers were growing evenly also in Hungary, until the 1980's when the so-called Afghanistan embargo came into effect in Eastern Europe. Thanks to our domestic economic and political reforms, we are the first country against which that embargo has now been lifted.

Following the announcement about the joint venture's formation, NEPSZAVA interviewed Zoltan Szatmary, the acting director of the Central Physics Research Institute. He said that, parallel with the resumption of the sales of microVAX computers in Hungary, the often problem-plagued production of TPA computers would be discontinued at the institute in Csilleberc. These computers belong in the same class as the computers the joint venture will be offering.

### **Otis, Schindler Vie for Ganz Elevator Works**

*90CH0005A Budapest HETI VILAGGAZDASAG in Hungarian 10 Feb 90 pp 68-70*

[Article by Gyorgyi Kocsis: "The Elevator Factory Will Be Sold"—first paragraph is HETI VILAGGAZDASAG introduction]

[Text] Of the three Ganz enterprises in the marriage market, suitors are now also courting the third one. With the Ganz Vehicle Factory and the Ganz Electric Meter Factory married off, it is now the Ganz Elevator Factory's turn. This time around the objections are not over the size of the dowry, but over the bride's virtues.

It would be a miracle if anyone entering the disorderly, dirty Ganz Elevator Factory plant did not lose all hope upon seeing the dilapidated shop buildings and the old, rusting machinery. Well, a miracle appears to have occurred. Perhaps they suspect there is gold or something in the ground. Anyhow, the two world giants of the elevator industry, Schindler of Switzerland and Otis of America, are competing for the favors of an enterprise which, with its 700 employees and annual sales of between 600 and 700 million forints, is merely of medium size, even by Hungarian standards. Experts in the elevator industry liken the two "suitors" to BMW and Mercedes in the automobile industry. They and Finland's Kone are in fierce competition with one another, and the three jointly account for a good half share of the world market. But the not exactly attractive fiancee may still end up as the spinster who said "no" once too often.

Moreover, a recently written letter suggests that the bride's virtues are not above reproach. The letter was addressed to the industry minister and written by Charles Ranunkel, an investment adviser or "marriage broker" of Hungarian extraction, living abroad. (Incidentally, he successfully brokered the deal between the Ganz Electric Meter Factory and Schlumberger, reported in the 27 Jan 90 issue of HETI VILAGGAZDASAG.) Ranunkel represented Otis in the negotiations that were held in recent months. The subject of the rather angry "letter of complaint" was the business conduct of Imre Pardi, the Ganz Elevator Factory's director.

Some details of the letter are especially intriguing. For instance: "We had scheduled the signing of the contract for 0830 on 13 December 1989. Otis's vice president, M. Kunert, and his team arrived on time at the Ganz Factory for the occasion, and the Ganz management was also there. The only person missing was Director Pardi, who had not bothered to inform anyone in advance of his absence. He finally turned up at 1430 and announced that he had just returned from Switzerland where he had committed himself to concluding a contract with Schindler. Naturally, the negotiations broke off at that point." Further on, the letter reads: "However, what happened has been very edifying for us. That kind of conduct is very dangerous for Hungary. Mr. Pardi is able to manage his enterprise just as a feudal lord managed his fiefdom. No one oversees him when he sells a company worth \$10 million. He is an elevator mechanic by training, without any legal or financial background, and he does not speak a foreign language." Charles Ranunkel ends his letter by suggesting to the industry minister that the enterprise be placed under direct state supervision, in which case Otis would be willing to buy a 60- to 100-percent stake in it.

or to bid for it if the enterprise were put out to tender. Attached to the letter was the power of attorney the Ganz Elevator Factory's enterprise council had given the director to sign a contract for forming a joint venture with an unspecified foreign partner who would provide an infusion of foreign capital. The power of attorney did not require the director to report to the enterprise council the details of the contract that would be signed.

Now the leading actor, Imre Pardi had been with the enterprise for 17 years when he became the Elevator Factory's director 18 months ago, after the split-up of Ganz-MAVAG [Ganz-Hungarian State Iron, Steel, and Machine Works] in 1988. The past of the enterprise he took over was brighter than its future prospects: Demand for apartment-building elevators, which had been the basis of the licensing and cooperation agreement concluded with Schindler 17 years earlier, ceased completely when the state's housing construction program ground to a halt; and keen demand for large-capacity hotel elevators can be expected perhaps only in conjunction with the preparations for the World's Fair. Last year, the elevator factory's first year as a separate enterprise, the loss on production proper was greater than the profit on installation work and servicing. The export of servicing plays a key role in the enterprise's earnings, and in this story as well: Eighty, 100, or 150 employees spend several months each year in Switzerland and other West European countries, as Schindler's servicemen. This accounts for the overwhelming share of the \$2 million that Ganz earns annually from exports. Naturally, the workers concerned also got nice per diem allowances.

The people at the factory expected to find the key to their enterprise's future in forming a joint venture that would produce an infusion of foreign capital. Although this idea had also been advanced in recent years, Schindler, the obvious natural partner, did not show much interest in it. "Otis wants to come in only to hang Schindler's scalp on its belt," Imre Pardi claims. Be that as it may, at the beginning of the year the American giant—up to then it had had a cooperation deal with one of Ganz's Hungarian competitors on the "back burner"—contacted the elevator factory with a definite plan. The broker was Charles Ranunkel, for whom such a "licensing agreement" had worked in the case of the Ganz Electric Meter Factory. He proposed that the enterprise be placed under direct state supervision and converted into a corporation, after which a stake in the corporation would be sold to Otis. But the proposal was categorically rejected. "It would have been impossible to get the enterprise council's approval," Imre Pardi claims. But he had an alternative proposal. According to a typical version of the well-known spontaneous privatization deals, a joint venture with a capital of between \$3 and \$5 million would be formed, the foreign partner contributing cash and know-how, while the Hungarian contribution would be Ganz's inventory and its mostly obsolete machinery. The joint venture would lease the necessary buildings from the state enterprise. The latter

would be partially transformed into a state holding company that would lease or sell the superfluous buildings.

In March, Ganz and Otis signed a letter of intent to form a joint venture. According to standard international business practice, such documents contain a clause in which the parties pledge not to hold similar talks with competitors, and not to reveal any information about their own negotiations. This caution is understandable: Finding the most suitable legal and financial framework for such deals takes considerable time, expertise, and money, which no one would willingly throw out the window. Nor probably the expenses that the foreign firm—in this case, Otis—incurs by inviting the Hungarian partner to tour its Western factories. All of this, of course, does not apply when there is an invitation to tender, but that is not what happened here.

In view of the opportunities Western firms have for gaining information, what is strange in the given case is not so much that Schindler learned very early about the Ganz-Otis negotiations and came, in October, with a proposal very similar to Otis's own. Rather, it is strange that the director entered into intensive parallel talks with Schindler. Imre Pardi, of course, had his reasons: 17 years of cooperation with Schindler; fear that the Swiss firm would take revenge somehow, for instance by forming a joint venture with Ganz's domestic competitor and by pirating the Elevator Factory's best workers; and the realization, of course, that the lucrative foreign servicing would come to an end. Imre Pardi himself says that he and Schindler scheduled 20 December as the date for finalizing the contract.

Amidst the conflicting allegations, it is difficult for an outsider to establish just how the idea of the ominous 13 December meeting mentioned in the letter arose, the meeting that practically Otis's entire headquarters staff honored with its presence, in the expectation that the contract would be signed then and there. According to Imre Pardi, that was to have been only one in the series of meetings, and he was opposed to holding it because he knew in advance that he would be meeting with Schindler just then. Anyhow, a staff member who has since left the Elevator Factory recalls the hours spent in the company of the Otis team, waiting for Imre Pardi to appear, as the most embarrassing and most shameful day of his life, crowned by the director's announcement when he finally did turn up. According to that staff member's account, the dramatic scene ended with the Otis executives summing up the work that had been accomplished, wishing Ganz well in its new venture, and departing.

On the principle that the aims sanctify the means, the director could now argue that the most important aim of forcing the suitors to compete has been achieved, never mind how, and now he would be able to conclude the best deal. But that is by no means certain: At the 20 December meeting Schindler already backed down from the original plan to take over 550 employees for the joint

venture and was willing to employ only 370 of them. Encountering Schindler's change of mind, Imre Pardi again contacted Otis. It, too, was willing to reopen negotiations, probably because it felt that a deal was more important than its injured pride. Meanwhile, the Ministry of Industry is trying to make up its mind whether to add the elevator factory to the list of 15 or 20 other enterprises as candidates for being placed under direct state supervision. The list is to be submitted to the National Assembly during its February session. The only trouble with this idea is that by then the Ganz factory will be long gone.

### **Soviet Trade Agreement Signed, Dollar-Based Settlement in 1991**

25000693 Budapest NEPSZAVA in Hungarian  
23 Mar 90 pp 1, 4

[MTI report: "Hungarian-Soviet Economic Agreement Signed at Ferihegy; the 800-Million-Ruble Soviet Debt Is Worth \$720 Million; Our Machine Industry Exports Decline Less Than Expected"]

[Text] At the conclusion of negotiations which were not without dramatic turns, an agreement was signed to record the results of the Hungarian-Soviet economic negotiations conducted in Budapest. It was signed in the last moment at Ferihegy Airport; the heads of the two delegations, Hungarian Deputy Prime Minister Peter Medgyessy and Soviet Deputy Prime Minister Stepan Sitaryan, affixed their signatures immediately prior to the latter's departure.

The essence of the agreement: The two parties agreed concerning the 800-million-ruble Hungarian balance of payments surplus that evolved in 1989, the settlement of which has been a disputed issue thus far. This surplus will be calculated on the basis of a 0.92 dollarable multiplier, which means that Hungary's existing claim is worth about \$720 million at this moment.

In the course of negotiations a mutually acceptable agreement was reached according to which the settlement of bilateral mercantile trade will take place in convertible foreign exchange, i.e. in dollars beginning in 1991, and at the same time contingent trade will be discontinued. This agreement also serves as a direct incentive to Hungarian enterprises to produce goods which can be sold on all markets, and which the Soviet Union is also willing to purchase for dollars.

As far as this year's mercantile trade is concerned, Soviet deliveries amount to about 3.7 billion rubles. Of this amount, machinery and equipment represent about 500 million rubles, while the volume of energy and raw materials deliveries will amount to 3 billion rubles. The total value of Hungarian exports in 1990 will be as high as 3.6 billion rubles. Of the total value of goods to be delivered to the Soviet Union, the volume of machinery and equipment will be worth about 1.6 billion rubles,

while food industry products, industrial consumables, and raw materials worth 1.8 billion rubles will be delivered.

In Medgyessy's view, the just concluded Hungarian-Soviet economic negotiations produced a realistic agreement which corresponds to Hungary's fundamental economic interests. Thus the 0.92 dollar/ruble exchange rate which constituted the subject of lengthy debate may be regarded as favorable, and similarly, the fact that this year our machine industry exports will decline by only nine percent as compared to last year's exports may be definitive. The rate of the machine industry export decline is far less than was expected on the basis of forecasts.

The deputy prime minister stressed that the mercantile trade memorandum just signed provides a good chance for the avoidance of a "trade war" between the two countries, nevertheless the Hungarian Government—the present government and one may assume also the new government—will consistently represent Hungarian interests. If the Soviet party does not deliver the merchandise, Hungary will not fulfill its commitments either.

The issue of Soviet oil deliveries was also discussed. The Soviet party promised that it will make up for its backlog of deliveries in the coming months, and that it will deliver the contractually agreed upon quantities to Hungary.

Our dollar accounts receivable that came about as a result of exchanging the balance of payments surplus that evolved last year vis-a-vis the Soviet Union may relieve the Hungarian economy next year, because the amount may cover the Hungarian deficit that will unavoidably present itself in the course of changing over to settlement based on convertible currencies. From a practical standpoint our present claim may be regarded as a loan granted to the Soviet Union.

Details concerning the Hungarian-Soviet economic agreement were also provided to journalists at the trade representation of the Soviet embassy in Budapest.

A single piece of new, essential information was provided: The 1990 Hungarian-Soviet mercantile trade memorandum itself was not signed. That is, they failed to reach an agreement with regard to items worth 116 million rubles.

In response to an MTI question, Medgyessy refined the statement later in the evening. Experts were instructed to reach an agreement concerning the items worth 116 million rubles in 10 days at the latest, so as to enable the signing of the 1990 Hungarian-Soviet mercantile trade memorandum.

Accordingly, based on the mercantile trade memorandum, Hungarian exports will amount to 3.35 billion rubles, while our imports will be worth 3.46 million rubles.

## POLAND

**Hydro-Electric Power Potential Viewed**

90EP0460A Warsaw TRYBUNA KONGRESOWA  
in Polish 8 Feb 90 p 6

[Article by Ryszard Zatorski: "Dams on the San"]

[Text] Sixteen dams were supposed to be built on the seventh largest river in the country. As early as before the war Professor Karol Pomianowski pointed out the potential energy of the San. The first design of the dam in Myczkowce was developed under his direction; the dam was finished between 1956 and 1960, and the turbines were installed.

In 1968, the largest dam on the San, almost one-third as tall as the Palace of Culture, was built in Solina, accumulating almost 0.5 billion cubic meters of water in an artificial lake. Turbines with a capacity of 136 MW were installed.

This was the end of it. Skilled labor dispersed throughout Poland, the enterprise was liquidated, and the equipment was scattered.

The investment in Solina, the largest hydropower station of its time, before there were Zarnowiec and Porabka, was recouped through the price of the energy generated within 7 years.

The proponents of using rivers for generating energy always stress additional benefits: These power stations do not pollute the environment, do not put pressure on transportation, and do not require coal. The water which moves the turbines and is accumulated in an artificial body of water protects the area from floods. During a drought, it is a natural source for offsetting the water shortage.

Specialists say that even the faraway capital would feel the beneficial effect of 16 cascades on the San. The dam in Niewistka which was under most serious study was to be one of the cascades.

Chief designer of this cascade Feliks Niczkie says frequently that the rationing of drinking water is a danger for Poland because the scale of squandering is tremendous. Throughout the world, water is used six or seven times over. "In our country, they use it once, fouling the rivers in the process." The energy of rivers is lost irretrievably.

Edward Warchol who manages the Solina-Myczkowce group of power stations proposed years ago to build a reservoir holding 4 million cubic meters at the top of Jawor Mountain adjacent to the Solina dam, and 300 meters below—a new power station which would be connected to the reservoir by a pipeline. This peak-storage power station could generate about 500 megawatts, or close to half the capacity of an average coal-fired station.

When will the appropriate moment come for being able to implement this concept and carry out the construction of the proposed cascades on the San? For how long will it be more advantageous to erect coal-fired power stations, "building" in the process heaps of radioactive ashes and clouds saturated with sulfur?

We may recall the obvious truth that "water flows, and unless we use it, it will flow to the sea uselessly." In Solina and Myczkowce, it was forced to work. The peaking power station in Solina which is turned on at moments of increased, peak demand for energy has been playing this role marvelously.

**Demonopolization Efforts in Agriculture, Industry, Trade Reviewed**

90EP0463B Warsaw RZECZPOSPOLITA in Polish  
6 Feb 90 pp 1, 2

[Article by Anna Sielanko: "Breaking Up the Monopolies"]

[Text] Much is being said about demonopolization; however, the actual results of these endeavors are mixed, and frequently they are not very much in evidence. Thus far, we have been dealing with rather preliminary measures in industry, agriculture, and trade which will in turn make it possible to ultimately overcome the monopolies. Work is underway on new legal arrangements which restrict the operation of monopolies, create conditions for the emergence of competitive economic entities, the breakup of the giants, and privatization.

For example, in agriculture legal foundations are being prepared for privatizing small processing facilities taken over by the state. The prepared draft law provides for the return of small mills, cereal mills, corn crushers, and breweries. It would be desirable to set up small slaughterhouses, dairy plants, and bakeries with the participation of foreign capital. However, this will be possible when regulations take effect which set forth procedures for privatization and methods of evaluating assets in the course of setting up partnerships with foreign participations.

The breakup of some large enterprises into smaller ones, implemented by virtue of government decisions or laws, weakens the position of monopolies. This has already befallen several enterprises of the meat-packing industry, in Wroclaw and Koszalin among others, of the refrigerated-food industry, as well as gardening farms. The sugar plants will be made independent shortly along the same lines.

In industry, 201 new companies have been formed in the past four months as a result of breaking up 19 multi-plant enterprises. This involves the coal industry to a large degree: For example, 71 coal mines became corporate persons. The gigantic Agroma was split into 21 enterprises selling agricultural equipment.

Intermediate structures, including the Hard Coal Corporation and Power Industry and Brown Coal Corporation,

will continue to be liquidated in the months to come. Subsequently, large enterprises will be broken up. They include Prodlew, Polkolor, Unitra-Unitech, Cemi, Budex, Uniprot, and Renifer.

The monopolies created a dozen or so years ago in trade, as well as in dairy processing, are still going strong. Some attempts which were made by the grassroots to split up the enterprises and separate them along territorial lines without changing the structure of ownership and creating competition are rather a spoof of this process.

In theory, demonopolization is to bring about the formation of a market in which small and large merchants compete, and initiative counts. In practice, this is supposed to come about through the sale or leasing of a considerable share of facilities and the construction of new ones. The current legal situation (civil law) according to which a part of the building cannot be sold separately from the rest of it makes it impossible to sell the premises of shops. Therefore, this law needs to be amended.

As far as the leasing of commercial space, the first public auction in Warsaw has already been held. However, the scale of this action is still too small. The auctioning of lots for building commercial stands also proceeds slowly. In state trade, the transformation of ownership and organization is still experimental. To be sure, in some voivodships many private shops have been set up recently (for example, in Ciechanow and Kielce Voivodships), but the operation of trade in these areas does not yet hinge on them.

The hope is that the amendment of the law on buildings which is already at an advanced stage of preparation and the recently adopted law on cooperatives will speed up the processes of demonopolization and privatization in trade, services, and public catering.

#### **'Optimistic' Commentary on Changing Labor Force Attitudes**

90EP0463A Warsaw *RZECZPOSPOLITA* in Polish  
10-11 Feb 90 p 1

[Commentary by Andrzej Zielinski: "A Bit of Optimism"]

[Text] The people are beginning to appreciate the jobs which they have. Predictions of unemployment, which were actually bolstered by the first group of layoffs, are beginning to play the role of an incentive.

Messages coming from state, cooperative, and private enterprises contain information which in general has not been found previously. A phenomenon is coming about which may be termed the consolidation of work forces around the enterprises.

The economic position of many companies is poor, and it could be worse yet. In many cases, they will have to play their ultimate survival game—a forceful, brutal game which entails reducing the labor force.

Highly positive elements which have not been seen for a long time have appeared in the course of this struggle for survival, struggle for existence which is being waged by many companies in Poland. The abandonment of strictly remunerative attitudes toward the management of these plants and enterprises is clearly visible. Even if the demand is made to come up with something, it is immediately specified for what and at the expense of what. The elimination by the employees (brigades, shops) of individuals who are unnecessary or undisciplined, individuals from their midst, has also become a new phenomenon. The divisions into administrative and production employees, members of Solidarity and the branch trade unions, party members and nonparty members are disappearing. Instead, a single universal criterion is emerging: a good or a bad worker.

The directors of enterprises also report the appearance of employee groups which offer the concepts of further development, or just survival, of the enterprise, which are entirely voluntary and independent of the trade union organizations which are somehow officially established in the enterprise. People who have ideas increasingly often advance to being genuine rather than appointed or demagogic leaders in the enterprises.

Therefore, a still delicate fabric of a new relationship between the employee and the employer is being created. It is developing mainly from the threat to existence; however, it may subsequently be transformed into a stable form of joint management of enterprises.

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